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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as  
a separate compilation

## भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India, (other than  
the Ministry of Defence)

विधि और न्याय मंत्रालय  
(विधि कार्य विभाग)  
सूचनाएं

नई दिल्ली, 9 अप्रैल, 1991

का. प्रा. 1292.—नोटरीज नियम, 1956 के नियम 6 के अनु-  
सरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री अनिक  
कुमार शर्मा ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक  
आवेदन इस बात के लिए दिया है कि उसे गाजियाबाद (उ.प्र.) व्यवसाय  
करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष  
इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास  
भेजा जाए।

[सं. एक-5(16)/91-न्याय]

MINISTRY OF LAW AND JUSTICE  
(Department of Legal Affairs)

NOTICES

New Delhi, the 9th April, 1991

S.O. 1292.—Notice is hereby given by the Competent  
Authority in pursuance of rule 6 of the Notaries, 1956,  
that application has been made to the said Authority, under  
rule 4 of the said Rules, by Shri Anik Kumar Sharma for  
appointment as a Notary to practise in Gaziabad (U.P.).

2. Any objection to the appointment of the said person  
as a Notary may be submitted in writing to the undersigned  
within fourteen days of the publication of this Notice.

[No. F. 5(16)/91-Judl.]

नई दिल्ली, 19 अप्रैल, 1991

का. प्रा. 1293.—नोटरीज नियम, 1956 के नियम 6 के अनु-  
सरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री मदन लाल  
चावला, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन  
एक आवेदन इस बात के लिए दिया है कि उसे जलंधर में व्यवसाय करने के  
लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष इस सूचना  
के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[एन. एक. 5 (18)/91-(न्याय)]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 19th April, 1991

S.O. 1293.—Notice is hereby given by the Competent  
Authority in pursuance of rule 6 of the Notaries, 1956,  
that application has been made to the said Authority, under  
rule 4 of the said Rules, by Shri Madan Lal Chawla,  
Advocate for appointment as a Notary to practise in  
Jalandhar.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(18)/91-Jud.]

P. C. KANNAN, Competent Authority

कामिक, लोक शिकायत तथा पेंशन मंत्रालय

(पेंशन तथा पेंशनभोगी कल्याण विभाग)

नई दिल्ली, 19 अप्रैल, 1991

का. भा. 1294.—राष्ट्रपति, संविधान के अनुच्छेद 148 के खंड (5) के साथ पठित अनुच्छेद 309 के परन्तुक द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, और भारतीय संपरीक्षा तथा लेखा-विभाग में सेवा करने वाले व्यक्तियों के संबंध में नियंत्रक महा लेखा-परीक्षक से परामर्श करते के पश्चात् केन्द्रीय सिविल सेवा (पेंशन) नियम 1972 का और संशोधन करने के लिए निम्नलिखित नियम बनाते अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम केन्द्रीय सिविल सेवा (पेंशन) तृतीय संशोधन नियम, 1991 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. केन्द्रीय सिविल सेवा (पेंशन) नियम, 1972 के नियम 33 में, निम्नलिखित स्पष्टीकरण मुख्य नियम के पश्चात् और टिप्पण 1 के पूर्व अंतः स्थापित किया जाएगा, अर्थात्:—

“स्पष्टीकरण: वृद्धि-रकता को सेवानिवृत्ति प्रमुखधाराओं की संगणना के लिए उपलब्ध माना जाएगा।”

[सं. 38/52/90-पी एंड पी डब्ल्यू/ए.]

ए. म. आर. वैद्य, उप सचिव

# MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

New Delhi, the 19th April, 1991

S.O. 1294.—In exercise of the powers conferred by the proviso to article 309 read with clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:—

1. (1) These rules may be called the Central Civil Services (Pension) Third Amendment Rules, 1991.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Pension) Rules, 1972, in rule 33, after the text of the said rule and before Note 1, the following Explanation shall be inserted, namely:—

“Explanation.—Stagnation increment shall be treated as emoluments for calculation of retirement benefits.”

[No. 38/52/90-P&PW/A]

M. R. VAIDYA, Dy. Secy.

(कामिक और प्रशिक्षण विभाग)

नई दिल्ली, 23 अप्रैल, 1991

का. भा. 1295.—केन्द्रीय सरकार, रंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रवृत्त शक्तियों

का प्रयोग करते हुए श्री ए. टी. डान्टे, एडवोकेट, तमिलनाडु में विचारण, अपील और पुनरीक्षण न्यायालयों में श्री एम. पी. उथप्पा और अन्य के विरुद्ध बिल्ली विशेष पुलिस स्थापन नियमित मामला सं. 2/87-एस.आई. यू. II/एस.आई. सी. I और आर. सी. 5/88-एस. सी. बी./मद्रास के अभियोजन और उससे उत्पन्न किन्हीं अन्य कार्यवाहियों के संचालन के प्रयोजन के लिए विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/35/90-ए.सी.सी.-II]

ए. सी. शर्मा, अधर सचिव

(Department of Personnel & Training)

New Delhi, the 23rd April, 1991

S.O. 1295.—In exercise of the powers conferred by sub-section 8 of Section 24 of the Code of Criminal Procedure 1973 (2 of 1974), the Central Government hereby appoints Shri A. T. Dante, Advocate, Madras, as Special Public Prosecutor for the purpose of conducting the prosecution and also any other proceedings arising out of the Delhi Special Police Establishment Regular case No. 2/87-SIU-II/SIC I and RC 5/88-SCB/Madras against Shri M. P. Uthappa and others in trial, Appellate and Revisional Courts in Tamil Nadu and other places.

[No. 225/35/90-AVD. II]

A. C. SHARMA, Under Secy.

वित्त मंत्रालय

राजस्व विभाग

नई दिल्ली, 19 मार्च, 1991

(आयकर)

का. भा. 1296.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “श्री जगदंबा मन्दिर ट्रस्ट” बम्बई को 1989-90 से 1991-92 तक के कर-निर्धारण वर्षों तक के लिए निम्न-लिखित शर्तों के अधीन रहते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

(i) कर-निर्धारिती इसकी आय का हस्तेमाल इसकी आय का हस्तेमाल करने के लिए, इसका व्यय पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;

(ii) कर-निर्धारिती ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जबर-अवधिरात, कर्नीचर आय के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अमिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में प्रत्येक से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[सं. 8853/का. सं. 197/6/90-आयकर नि.-I]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 19th March, 1991

(INCOME-TAX)

S.O. 1296.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section of the Income-tax Act,

1961 (43 of 1961), the Central Government hereby notifies "Shri Jagadamba Mandir Trust, Bombay" for the purpose of the said sub-clause for the assessment years 1989-90 to 1991-92 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8853/F. No. 197/6/90-IT (A)]

नई दिल्ली, 2 अप्रैल, 1991

का. भा. 1297.—भायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "पणजिम जीमखाना, पणजी, गोवा" को 1990-91 से 1992-93 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संघयन इस प्रकार के संघयन हेतु उक्त खंड (23) द्वारा यथा-संशोधित धारा 11 की उप-धारा (2) तथा (3) के उपबंधों के अनुरूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अवधि एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेबर-जवाहिरात, फर्निचर अथवा किसी अन्य वस्तु, जिसे उपर्युक्त खंड (23) के तीसरे परन्तुक के अधीन बोर्ड द्वारा अधिसूचित किया जाए के रूप में प्राप्त तथा रख-रखाव में स्वीकृत भ्रमदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) कर-निर्धारिती अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का वितरण अपने से संबंध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और
- (iv) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में भ्रम से लेखा-मुस्तकाएँ नहीं रखी जाती हों।

[अधि. सं. 8858/फा. सं. 196/11/90-भा.क.नि.-I]

New Delhi, the 2nd April, 1991

S.O. 1297.—In exercise of the powers conferred by clause (23) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Panjim Gymkhana, Panaji, Goa" for the purpose of the said clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application in consonance with the provisions of sub-sections (2) and (3) of section 11 as modified by the said clause (23) for such accumulation, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds [other than voluntary contributions received and maintained in the form of jewellery, furniture, or any other article as may be notified by the Board, under the third proviso to the aforesaid clause (23)] for any period during the previous year(s) relevant to the assessment year(s) mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 8858/F. No. 196/11/90-IT.A-I]

का. भा. 1298.—भायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "वि कोयम्बटूर डिस्ट्रिक्ट क्रिकेट एसोसिएशन कोयम्बटूर" को 1990-91 से 1992-93 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा इस्तेमाल हेतु उसका संघयन, ऐसे संघयन के निमित्त उक्त धारा (23) द्वारा यथा-संशोधित धारा 11 की उपधारा (2) तथा (3) के उपबंधों के अनुरूप, पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए उसकी स्थापना की गई है;
- (ii) कर-निर्धारिती ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अवधि एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेबर-जवाहिरात फर्निचर, अथवा किसी अन्य वस्तु, जैसा कि बोर्ड द्वारा उक्त खण्ड (23) के तीसरे परन्तुक के अधीन अधिसूचित किया जाए, के रूप में प्राप्त तथा रख-रखाव में स्वीकृत भ्रमदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) कर-निर्धारिती उसकी आय के किसी भी भाग का वितरण उससे संबंध किसी एसोसिएशन अथवा संस्था को अनुदान के सिवाय किसी भी तरीके से उसके सदस्यों में नहीं करेगा; तथा
- (iv) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो, जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में भ्रम से लेखा-मुस्तिकाएँ नहीं रखी जाती हों।

[अधि. संख्या 8859/फा. सं. 196/2/91-भा.क.नि.-I]

S.O. 1298.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the Coimbatore District Cricket Association, Coimbatore for the pur

pose of the said clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application in consonance with the provisions of sub-sections (2) and (3) of section 11 as modified by the said clause (23) for such accumulation, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds [other than voluntary contributions received and maintained in the form of jewellery, furniture, or any other articles as may be notified by the Board under the third proviso to the aforesaid clause (23)] for any period during the previous year(s) relevant to the assessment year(s) mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 8859/F. No. 196/2/91-ITA-I]

(आयकर)

का. .... 1299:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री रामकृष्ण आश्रम निम्पिठ, पश्चिम बंगाल" को 1989-90 से 1991-92 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेबर-जबाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वेच्छिक प्रदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में मूल्य से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[सं. 8861/फा.सं. 197/31/91-आयकर नि.-I]

(INCOME-TAX)

S.O. 1299.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Ramkrishna Ashram, Nimpith, West Bengal" for the purpose of the said sub-clause for the assessment years 1989-90 to 1991-92 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;

- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8861/F. No. 197/31/91-ITA-I]

(आयकर)

का.आ. 1300:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "इंडियन पीपुल्स नैचुरल कैलेमिटीज ट्रस्ट, नई दिल्ली" को कर-निर्धारण वर्ष 1990-91 से 1992-93 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेबर-जबाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वेच्छिक प्रदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में मूल्य से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[सं. 8860/फा.सं. 197/106/90-आयकर नि.-I]

बलास सिंह, विशेष कार्य अधिकारी

(INCOME-TAX)

S.O. 1300.—In exercise of the powers conferred by sub-clause (iv) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Indian People's Natural Calamities Trust, New Delhi" for the purpose of the said sub-clause for the assessment years 1990-91 to 1992-93 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless

the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 8860/F. No. 197/106/90-IT.A.]

DALIP SINGH, Officer on Spl. Duty

(आर्थिक कार्य विभाग)

नई दिल्ली, 25 अप्रैल, 1991

का.भा. 1301:—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में वित्त मंत्रालय (आर्थिक कार्य विभाग) के प्रशासनिक नियंत्रण में स्थित भारतीय साधारण बीमा निगम, के निम्न-लिखित कार्यालयों को जिनके 80 प्रतिशत से अधिक कर्मचारीबुद्ध ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:

भारतीय साधारण बीमा निगम:—

कंपनी का नाम : नेशनल इश्योरम कं. लि.

1. क्षेत्रीय कार्यालय, जयपुर
2. शाखा कार्यालय, कहलगाँव
3. शाखा कार्यालय, कंकड़बाग
4. शाखा कार्यालय, हाजीपुर
5. शाखा कार्यालय, सीतामढ़ी

[सं.फा. 13011/7/88-हि.का.क.]

के.जी. गोयल, निदेशक (प्रशासन)

(Department of Economic Affairs)

New Delhi, the 25th April, 1991

S.O. 1301.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the General Insurance Corporation of India (under the Administrative control of Ministry of Finance, Department of Economic Affairs) where of more than 80 per cent of staff have acquired working knowledge of Hindi.

General Insurance Corporation of India

Name of the Company : National Insurance Company Ltd.

1. Regional Office, Jaipur
2. Branch Office, Kahlgaon
3. Branch Office, Kankadbagh
4. Branch Office, Hajipur
5. Branch Office, Seetamadi.

[No. F. 13011/7/88-HIE]

K. G. GOEL, Director (Admn.)

(बैंकिंग प्रभाग)

नई दिल्ली, 24 अप्रैल, 1991

का.भा. 1302:—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा 2 के प्रावधान यनाइटेड बैंक आफ इण्डिया, कलकत्ता पर 15 मार्च, 1994 की अवधि तक उस सीमा तक लागू नहीं होंगे, जहाँ तक कि उनका संबंध गिरखोदार के रूप में मैसर्स स्टर्लिंग फार्मास्यूटिकल्स कम्पनी (पी) लिमिटेड की 30 प्रतिशत से अधिक की प्रवृत्त शेयर पूंजी की उसकी धारिता से है।

[सं. 15/13/87-बी.ओ.-III]

के.के. मंगल, अवसर सचिव

(Banking Division)

New Delhi, the 24th April, 1991

S.O. 1302.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendations of the Reserve Bank of India, hereby declares that the provisions of sub-section 2 of section 19 of the said Act shall not apply to United Bank of India, Calcutta for a period upto 15th March, 1994 insofar as they relate to its holding of the shares of M/s. Sterling Pharmaceutical Products Company (P) Limited in excess of 30 percent of the paid-up share capital of the company as pledged.

[No. 15/13/87-B.O.III]

K. K. MANGAL, Under Secy.

मुख्य आयकर आयुक्त III का कार्यालय

कलकत्ता, 26 फरवरी, 1991

का.भा. 1303:—आयकर अधिनियम, 1961 (1961 का 43) की धारा 120 की उप-धारा (1) और (2) द्वारा और केन्द्रीय प्रत्यक्ष कर बोर्ड, नई दिल्ली के अधीन जारी अधिसूचना संख्या 8748/ (फाइल संख्या 279/121/89 आर.टी.जे. एस.ओ. 777 (ई) दिनांक 11-10-1990 द्वारा प्रवृत्त शक्तियों का और हम विभा में सक्षम बनाने वाली अन्य शक्तियों का प्रयोग करते हुए, मैं, मुख्य आयकर आयुक्त-III, कलकत्ता एतद्वारा निदेश देता हूँ कि संलग्न अनुसूची के स्तम्भ 4 में उल्लिखित निम्नलिखित व्यक्तियों के निम्नलिखित अपील के संबंध में ऐसे व्यक्तियों के बारे में स्तम्भ 2 में उल्लिखित आयकर (अपील) अपने कृत्यों का पालन नहीं करेंगे और स्तम्भ 3 में उल्लिखित आयकर आयुक्त (अपील) अपने कृत्यों का पालन करेंगे।

2. यह अधिसूचना तारीख 1-3-1991 से लागू होगी।

3. यह स्पष्ट किया जाता है कि उपरोक्त उल्लिखित अपीलों को छोड़कर, अधोतहस्ताक्षरी द्वारा जारी की गई अधिसूचना संख्या 4/90-91 दिनांक 5-11-1990 में निर्धारित आयकर आयुक्त (अपील) VIII, IX, और XI II के क्षेत्राधिकार में कोई परिवर्तन नहीं होगा।

[संख्या सं.पा./मुख्या/योजना/30/90-91/संख्या: 17/90-91]]

बी.के. सिन्हा, मुख्य आयकर आयुक्त-III)

## मुख्य अधिकार आयुक्त-II: कलकत्ता के अधीन कार्यरत

क्रम संख्या	क्षेत्राधिकार से	क्षेत्राधिकार के	अर्पणार्थी का नाम	अपील संख्या	अपील के अधीन निर्धारण वर्ष व आदेश
1	2	3	4	5	6
1.	आ.आ. (अपील)-1—IX	आ.आ. (अपील)-8	डालहोउर्ब प्रापर-टीज लिमिटेड	88/उ.आ.स्वे.रें-5/ आ.आ. (अ)-1X/90-91	1977-78 धारा-144 दिनांक 5-3-1980
2.	—वही—	—वही—	—वही—	15/उ.आ.स्वे.रेंज-5/ आ.आ. (अ)-1X/90-91	1978-79, धारा 144 के अधीन दिनांक 5-3-1990
3.	—वही—	—वही—	—वही—	89/उ.आ.स्वे.रें-5/ आ.आ. (अ)-1X/90-91	1080-81, धारा 144 के अधीन दिनांक 7-3-1990
4.	—वही—	—वही—	—वही—	90/उ.आ.स्वे.रें-5/ आ.आ. (अ) 1X/90-91	1982-83 धारा 144 के अधीन दिनांक 7-3-1990
5.	—वही—	—वही—	—वही—	91/उ.आ.स्वे.रें-5/ आ.आ. (अ)-1X/90-91	1983-84 धारा 144 के अधीन दिनांक 7-3-1990
6.	—वही—	—वही—	—वही—	5/उ.आ.स्वे.रें-5/ आ.आ. (अ)-1X/90-91	1984-85 धारा 144 के अधीन दिनांक 23-10-1990
7.	—वही—	—वही—	—वही—	49/उ.आ. स्वे. रें-5/ आ.आ. (अ)-1X/90-91	1986-87 धारा 144 के अधीन दिनांक 29-3-1985
8.	—वही—	—वही—	—वही—	92/उ.आ. स्वे. रें-5/ आ.आ. (अ)-1X/90-91	1987-88, धारा 143(3) के अधीन दिनांक 5-3-1990
9.	—वही—	—वही—	मैसर्स ऐलुमिनियम (यू. पी.) (प्रा. लि.)	61/उ.आ.स्वे.रेंज-5/ आ.आ. (अ)-1X/90-91	1976-77 धारा 144/25 के अधीन दिनांक 1-3-1989
10.	—वही—	—वही—	—वही—	60/उ.आ. स्वे. रेंज-5/ आ.आ. (अ)-1X/90-91	1977-78, धारा 144/251 दिनांक 1-3-1989
11.	—वही—	—वही—	—वही—	59/उ.आ. स्वे.रेंज-5/ आ.आ. (अ)-1X/90-91	1979-90 धारा 144/20 के अधीन दिनांक 1-3-1989
12.	—वही—	—वही—	मैसर्स ऐलुमिनियम बजस कंटाकटस	25/उ.आ. स्वे.रें-5/ आ.आ. (अ)-1X/90-91	1981-82 धारा 144/251 के अधीन दिनांक 1-3-1989
13.	—वही—	—वही—	(यू. पी. प्रा. लि. प्रोडक्ट्स लि.)	97/उ.आ. स्वे.रें-5/ आ.आ. (अ)-1X/90-91	1987-88 धारा 143 (3) के अधीन दिनांक 7-3-1990.
14.	—वही—	—वही—	मैसर्स भारतीय इलेक्ट्रिक स्टोस कं. लि.	107/उ.आ. स्वे. रेंज-5/ आ.आ. (अ)/90-91	1987-88 धारा 143(3) के अधीन दिनांक 30-3-1990
15.	—वही—	—वही—	मैसर्स गुप्ता ब्रदर्स एंड सन (बहुत पहले विपटिन)	152/सक-18(1) आ.आ. (अ)-1X/90-91	1987-88, धारा 143(3)/184 (7) के अधीन दिनांक 29-3-90
16.	—वही—	—वही—	मैसर्स कथा प्रलाभ एंड स्टोस लि. ऊषा भोटव इंडस्ट्रिज लि. के साथ एकीकृत	98/उ.आ. स्वे. रें-5/ आ.आ. (अ)-1X/90-91	1987-88, धारा 143(3) के अधीन दिनांक 30-2 1990
17.	—वही—	—वही—	श्री लक्ष्मी नारायण दास	17/सक-4(2)/आ.आ. (अ)-IX/90-91	1984-83, धारा 143(3)/147 (2) के अधीन दिनांक 30-3-90
18.	—वही—	—वही—	—वही—	16/सक 4(2)आ.आ. (अ)-1X/90-91	1986-87, धारा 143(3)/147 (ए)
19.	—वही—	—वही—	मैसर्स ईस्टन कुल्स प्रा. लि.	17/उ.आ. स्वे. रें-5/ आ.आ. (अ)-1X/90-91	1987-88, धारा 143(3) के अधीन दिनांक 18-1-90

1	2	3	4	5	6
20.	आ.आ. (अपील)-IX	आ.आ. (अपील)	मैसर्स ईस्टर्न कार्पोरेशन लिमिटेड काठिमेंटन	85/उ.आ. स्पे. रें-5 आ.आ. (अ)-IX/90-91	1987-88, धारा 144 के अधीन दिनांक 23-3-90
21.	---वही---	---वही---	मैसर्स प्रीमियर कल केवल एंड कंडक्टर्स प्रा. लि.	109/उ.आ. स्पे. रें-5/आ.आ. (अ) IX/90-91	1989-90, धारा 144 के अधीन दिनांक 10-9-1990
22.	---वही---	आ.आ. (अपील)-XIII	शेख अब्दुल बारी	86/उ.आ. स्पे. रें-18(11)/आ.आ. (अ)-IX/90-91	1976-77, धारा 144/147 के अधीन दिनांक 29-3-1989
23.	---वही---	---वही---	---वही---	84/उ.आ. स्पे. रें-18(11)/आ.आ. (अ)-IX/90-91	1977-78, धारा 144/147 के अधीन दिनांक 31-8-1989
24.	---वही---	---वही---	---वही---	85/उ.आ. स्पे. रें-18(11)/आ.आ. (अ)-IX/90-91	1978-79, धारा 144/147 के अधीन दिनांक 31-8-1989
25.	---वही---	---वही---	---वही---	83/उ.आ. स्पे. रें-18(11)/आ.आ. (अ)-IX/90-91	1984-85, धारा 144/147 के अधीन दिनांक 31-3-1989

OFFICE OF THE CHIEF COMMISSIONER OF  
INCOME TAX-III

Calcutta, the 26th February, 1991

S.O. 1303.—In exercise of powers conferred by Sub-section (1) and (2) of section 120 of the Income-tax Act, 1961 (43 of 1961) and in exercise of powers conferred on me by the Central Board of Direct Taxes, New Delhi, vide its Notification No. 8748 in F. No. 279/121/89-ITJ/S.O. 777(E) dated 11-10-1990, and all other powers enabling me in this behalf, I, the Chief Commissioner of Income-tax-III, Calcutta, hereby direct that in respect of the following Appeals in respect of the following persons as specified in Column 4 of the Schedule attached hereto, the Commis-

sioner of Income-tax (Appeals) specified in Column 2 shall not and the Commissioner of Income-tax (Appeals) specified in Column 3 shall perform their functions in respect of such persons.

2. This notification takes effect from 1-3-1991.

3. It is clarified that, but for the appeals mentioned above, the jurisdiction of Commissioner of Income-tax (Appeals)-VIII, IX and XIII will stand unaltered as decided in Notification No. 4/90-91 dated 5-11-1990 issued by the undersigned.

[No. AC/HQ/Planning/30/90-91/No. 17/90-91]

V. K. SINHA, Chief Commissioner of Income Tax-III

SCHEDULE OF JURISDICTION OF COMMISSIONER OF INCOME TAX (APPEALS) FUNCTIONING UNDER  
CHIEF COMMISSIONER OF INCOME TAX-III, CALCUTTA

Sl. No.	Jurisdiction		Name of the appellant	Appeal No.	Assessment year and the order under appeal
	From	To			
1	2	3	4	5	6
1.	CIT, (Appeal)-IX.	CIT, (Appeal)-VIII.	Dalhousie Properties Ltd.	88/D.C. Spl. R-5/ CIT(A)-IX/90-91	1977-78, u/s. 144, dated 5-3-1990.
2.	-do-	-do-	-do-	105/D.C. Spl. R-5/ CIT(A)-IX/90-91	1978-79, u/s. 144, dated 5-3-1990.
3.	-do-	-do-	-do-	89/D.C. Spl. R-5/ CIT(A)-IX/90-91	1980-81, U/s. 144 dated 7-3-1990.
4.	-do-	-do-	-do-	90/D.C. Spl. R-5/ CIT(A)-IX/90-91	1982-83, U/s. 144 dated 7-3-1990.
5.	-do-	-do-	-do-	91/D.C. Spl. R-5/ CIT(A)-IX/90-91	1983-84, U/s. 144 dated 7-3-1990.
6.	-do-	-do-	-do-	5/D.C. Spl. R-5/ CIT(A)-IX/90-91	1984-85, U/s. 144 dated 23-10-1990.
7.	-do-	-do-	-do-	49/D.C. Spl. R-5/ CIT(A)-IX/90-91	1986-87, U/s 144 dated 29-3-1989
8.	-do-	-do-	-do-	92/D.C. Spl. R-5/ CIT(A)-IX/90-91	1987-88, U/s. 143(3) dated 5-3-1990.
9.	-do-	-do-	M/s. Aluminium Cables & Conductors (U.P.) Pvt. Ltd.	61/D.C. Spl. R-5/ CIT(A)-IX/90-91	1976-77, U/s. 144/251 dated 1-3-1989.

1	2	3	5	5	6
10.	CIT., (Appeal)-IX.	CIT., (Appeal)-VIII.	M/s. Aluminium Cables & Conductors (U.P.) Pvt. Ltd.	60/D.C. Spl. R-5/ CIT(A)-IX/90-91	1977-78, U/s. 144/251 dated 1-3-1989.
11.	-do-	-do-	-do-	59/D.C. Spl. R-5/ CIT(A)-IX/90-91	1979-80, U/s. 144/251 dated 1-3-1989.
12.	-do-	-do-	-do-	25/D.C. Spl. R-5/ CIT(A)-IX/90-91	1981-82 U/s. 144/251 dated 1-3-1989
13.	-do-	-do-	M/s. Vegetable Products Limited	97/D.C. Spl. R-5/ CIT(A)-IX/90-91	1987-88, U/s. 143(3) dated 7-3-1990.
14.	-do-	-do-	M/s. Bhartia Electric Steel Co. Ltd.	107/D.C. Spl. R-5/ CIT(A)-IX/90-91	1987-88, U/s. 143(3) dated 30-3-1990.
15.	-do-	-do-	M/s. Gupta Bros. & Sons (Since dissolved)	152/Cir-18(1) CIT(A)-IX/90-91	1987-88, U/s. 143(3)/ 184(7) dated 29-3-90.
16.	-do-	-do-	M/s. Usha Alloys & Steels Limited (Now Amalgamated with Usha Martin Industries Limited).	98/D.C. Spl. R-5/ CIT(A)-IX/90-91	1987-88, U/s. 143(3) dated 30-3-1990.
17.	-do-	-do-	Sri Laxmi Narayan Daga	17/Cir-4(2)/ CIT(A)-IX/90-91	1984-85, U/s. 143 (3)/ 147(a) dated 30-3-90.
18.	-do-	-do-	-do-	16/Cir-4(2)/ CIT(A)-IX/90-91	1986-87, U/s. 143(3)/ 147(a).
19.	-do-	-do-	M/s. Eastern Cools Private Limited	17/D.C. Spl. R-5/ CIT(A)-IX/90-91	1987-88, U/s. 143(3) dated 19-1-1990.
20.	-do-	CIT., (Appeal)-XIII.	M/s. Eastern Confectioneries & Condiments.	85/D.C. Spl. R-5/ CIT(A)-IX/90-91	1987-88, U/s. 144 dated 23-3-1990.
21.	-do-	-do-	M/s. Electrical Cables & Conductors Pvt. Ltd.	109/D.C. Spl. R-5/ CIT(A)-IX/90-91	1989-90, U/s. 144 dated 10-9-1990
22.	-do-	-do-	Sk. Abdul Bari	86/W-18(11)/ CIT(A)-IX/90-91	1976-77, U/s. 144/147 dated 29-3-1989.
23.	-do-	-do-	-do-	84/W-18(11)/ CIT(A)-IX/90-91	1977-78, U/s. 144/147 dated 31-8-1989.
24.	-do-	-do-	-do-	85/W-18(11)/ CIT(A)-IX/90-91	1978-79, U/s. 144/147 dated 31-8-1989.
25.	-do-	-do-	-do-	83/W-18(11)/ CIT(A)-IX/90-91	1984-85, U/s. 144/147 dated 31-8-1989.

## केन्द्रीय उत्पाद शुल्क समाहृतकिय

अधिसूचना संख्या 02/1991

नागपुर, 22 अप्रैल, 1991

का.प्रा. 1304--श्री के.पी. वार्के, अधीक्षक, केन्द्रीय उत्पाद शुल्क समूह "ख" समाहृतकिय नागपुर भिक्सेन की घामु प्राप्त करने पर दिनांक 31-3-1991 को अपरान्ध में शासकीय सेवा से निवृत्त हुए।

[फा.सं. II(3) 1/90-स्था. I/29866]

जीतराम कैत, अपर समाहर्ता (कामिक एवं सतर्कता)

## CENTRAL EXCISE COLLECTORATE

NOTIFICATION NO. 02/1991

Nagpur, the 22nd April, 1991

S.O. 1304.—Shri K. P. Warke, Superintendent, Central Excise Group 'B' of Nagpur Collectorate having attained the age of Superannuation retired from Government service on 31-3-1991 in the afternoon.

[C. No. II(3)/1/90/Et. I/29866]

J. R. KAIT, Addl. Collector (Per. &amp; Vig.)

## वाणिज्य मंत्रालय

आदेश

नई दिल्ली, 22 अप्रैल, 1991

का.प्रा. 1305--केन्द्रीय सरकार ने निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (2) की अपेक्षानुसार भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का.प्रा. 3037 तारीख 30 दिसम्बर, 1990 के अधीन भारत के राजपत्र तारीख 17 नवम्बर, 1990 में प्रकाशित भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का.प्रा. 1153 तारीख 9 अप्रैल, 1988 का संशोधन करने के लिए कतिपय प्रस्ताव बनाए हैं;

और उक्त आदेश के राजपत्र में प्रकाशित होने की तारीख से पैंतालीस दिनों के भीतर उनसे प्रभावित होने वाले सभी व्यक्तियों से आक्षेप तथा सुझाव मांगे गए थे;

और उक्त राजपत्र की प्रतियाँ 19-11-1990 को जनता को उपलब्ध करा दी गई थी;

और केन्द्रीय सरकार ने उक्त प्रारूप पर जनता से प्राप्त आक्षेपों तथा सुझावों पर विचार कर लिया है;



प्रतः भव, केन्द्रीय सरकार, निर्यात (स्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.प्रा. 1153 तारीख 9 अप्रैल, 1988 के अधीन प्रकाशित आदेश का और संशोधन करने के लिए निम्नलिखित आदेश करती है, अर्थात् :-

उक्त आदेश में, उपाखण्ड-1 के मद 3 के अन्त में निम्नलिखित अन्तः स्थापित किया जाएगा, अर्थात् :-

"परन्तु 200 ग्राम और उससे अधिक भार वाली प्रशीतित सिल्वर पामफ्रिट को तूतीकोरीन, मद्रास, काकीनाडा, विशाखापत्तनम, पारादीप और कलकत्ता से निर्यात की अनुमति दी जाएगी।"

[फाइल सं. 6/12/84-ई।] ]

पाद टिप्पण :-

मूल आदेश का.प्रा. 1153 तारीख 9 अप्रैल, 1988 द्वारा प्रकाशित किया गया था।

## MINISTRY OF COMMERCE

### ORDER

New Delhi, the 22nd April, 1991

S.O. 1305.—Whereas, in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government had formulated certain proposals for amending the Order of the Government of India in the Ministry of Commerce No. S.O. 1153, dated the 9th April, 1988 published in the Gazette of India dated the 17th November, 1990 under the Order of the Government of India in the Ministry of Commerce No. S.O. 3037, dated 30th October, 1990 as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964,

And whereas the objections and suggestions were invited within forty-five days of the publication of the said Order in the Official Gazette from all persons likely to be affected thereby;

And whereas copies of the said Gazette were made available to the public on 19-11-1990.

And whereas objections and suggestions received from the public on the said draft have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (32 of 1963), the Central Government after consulting the Export Inspection Council, hereby makes the following Order further to amend the Order published under the notification of the Government of India in the Ministry of Commerce No. S.O. 1153, dated the 9th April, 1988, namely:—

In the said Order in item 3 of Annexure-I, the following shall be inserted at the end, namely:—

"Provided that frozen silver pomfrets of weight 200 gms. and above from Tuticorin, Madras, Kakinada, Vishakhapatnam, Paradeep and Calcutta shall be allowed for export."

[File No. 6/12/84-EI&EP]

Foot Note :

The Principal Order was published vide S.O. 1153, dated the 9th April, 1988.  
1158 GI/91—2

का.प्रा. 1306.—केन्द्रीय सरकार, निर्यात (स्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, प्रशीतित मछली और मछली उत्पाद का निर्यात (स्वालिटी नियंत्रण और निरीक्षण) नियम, 1987 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

(1) इन नियमों का संक्षिप्त नाम प्रशीतित मछली और मछली उत्पाद का निर्यात (स्वालिटी नियंत्रण और निरीक्षण) संशोधन नियम, 1991 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. उक्त नियमों में, परिशिष्ट की मद 3 के अन्त में निम्नलिखित अन्तः स्थापित किया जाएगा, अर्थात् :-

"परन्तु 200 ग्राम और उससे अधिक भार वाली प्रशीतित सिल्वर पामफ्रिट को तूतीकोरीन, मद्रास, काकीनाडा, विशाखापत्तनम, पारादीप और कलकत्ता से निर्यात की अनुमति दी जाएगी।

[फाइल सं. 6(12)/84-ई आई एन डी ई।]

पाद टिप्पण :-—मूल अधिसूचना का.प्रा. 1153 (ए) (क) तारीख 9 अप्रैल, 1989 द्वारा प्रकाशित किया गया।

S.O. 1306.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules to amend the Export of Frozen Fish and Fishery Products (Quality Control and Inspection) Rules, 1987, namely:—

1. (1) These rules may be called the Export of Frozen Fish and Fishery Products (Quality Control and Inspection) (Amendment) Rules, 1991.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the said rules, in item 3 of Appendix, the following shall be inserted at the end namely:—

"Provided that frozen silver pomfrets of weight of 200 gm and above from Tuticorin, Madras, Kakinada, Vishakhapatnam, Paradeep and Calcutta shall be allowed for export."

[F. No. 6/12/84-EI&EP]

### FOOT NOTE :

The principal Notification was published vide No. S.O. 1153(a) dated 9th April, 1988.

का.प्रा. 1307.—केन्द्रीय सरकार, निर्यात (स्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 8 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सरकार के वाणिज्य मंत्रालय के आदेश सं. का.प्रा. 3395 तारीख 14 अक्टूबर, 1970 का संशोधन करने के लिए नीचे विनिर्दिष्ट कतिपय प्रस्ताव बनाए हैं और उन्हें निर्यात (स्वालिटी नियंत्रण और निरीक्षण) नियम, 1984 के नियम 11 के उप नियम (2) की अपेक्षानुसार नियति निरीक्षण परिषद की सज्ज विवा है ;

प्रतः भव, केन्द्रीय सरकार उक्त उप नियम के अनुसरण में उक्त प्रस्तावों को उन लोगों की जानकारी के लिए जिनके उनसे प्रभावित होने की संभावना है, प्रकाशित करती है।

2. सूचना दी जाती है कि उक्त प्रस्तावों के बारे में कोई आक्षेप या सुझाव अंग्रेजों का हस्तक्षेप कोई व्यक्ति उन्हें इस आदेश के राजपत्र में प्रकाशन की तारीख से पैंतालीस दिन के भीतर निर्यात निरीक्षण परिषद, प्रगति टावर, (11वीं मंजिल), 26, राजेश्वर प्लेस, नयी दिल्ली-110008 को सेंग सकता है।

## प्रस्ताव

केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का.भा. 3395 तारीख 14 अक्टूबर, 1970 का निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त आदेश के खंड 3 में, उप-खंड (iv) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

“(iv) ‘कालीन धस्तरण कपड़ा’ अर्थात् छोटे कालीन धस्तरण के लिए 264.0 सें.मी. से कम चौड़ाई और विस्तृत के लिए 264.0 सें.मी. और उससे अधिक चौड़ाई का जूट फैब्रिक जिसे विभिन्न बनावटों और बुनाई के फर्श के विनिर्माण में प्राथमिक या द्वितीय रूप से प्रयोग किया गया है।”

[फाइल सं. 6(14)/90-ई आई एण्ड ई पी]

S.O. 1307.—Whereas in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government has formulated certain proposals specified below for amending the Order of Government of India in the Ministry of Commerce No. S.O. 3395, the 14th October, 1970 and has forwarded the same to the Export Inspection Council as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964;

Now, therefore, in pursuance of the said sub-rule, the Central Government hereby publishes the said proposals, for the information of the public likely to be affected thereby.

2. Notice is hereby given that any person desiring to forward any objection or suggestion with respect to the said proposal may forward the same within forty-five days of the date of publication of this Order in the Official Gazette to the Export Inspection Council of India, Pragati Tower (11th floor), 26, Rajindra Place, New Delhi-110008.

## PROPOSALS

In exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting the Export Inspection Council, makes the following amendment in the Order of the Government of India in the Ministry of Commerce, No. S.O. 3395, dated the 14th October, 1970, namely:—

In the said Order, in clause 3 for sub-clause (iv) the following shall be substituted, namely:—

“(iv) ‘Carpet Backing Cloth’ that is, Jute fabric used as primary or secondary backing in the manufacture of floor of different constructions and weaves, with the width less than 264.0 cms. for narrow and 264.0 cms. and above for wide Carpet Backing.”

[F. No. 6/4/90-EI&FP]

का.भा. 1308—केन्द्रीय सरकार ने, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का.भा. 4067 तारीख 20 सितम्बर, 1975 का संशोधन करने के लिये नीचे विनिर्दिष्ट कतिपय प्रस्ताव बनाए हैं और उन्हें निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उप नियम (2) की अपेक्षाानुसार निर्यात निरीक्षण परिषद को भेज दिया है;

अतः आज, केन्द्रीय सरकार, उक्त उपनियम के अनुसूचन में उक्त प्रस्तावों को उन लोगों की जानकारी के लिए जिनके उनसे प्रभावित होने की संभावना है प्रकाशित करती है।

2. सच्चा दी जाती है कि उक्त प्रस्तावों के बारे में कोई आक्षेप या सुझाव भेजने का दृष्टिकोण कोई व्यक्ति उन्हें इस आदेश के राजपत्र में प्रकाशन की तारीख से पैंतानीम दिन के भीतर निर्यात निरीक्षण परिषद, प्रगति टावर, (11वीं मंजिल) 26, राजेन्द्र प्लेस, नई दिल्ली-110008 को भेज सकता है।

## प्रस्ताव

केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का.भा. 4067 तारीख 20 सितम्बर, 1975 का निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त आदेश के उपाखण्ड में:—

(i) खंड 1 में उप खंड (2) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

“(2) जब तक कि क्रेता की संविदा में अन्यथा विनिर्दिष्ट न हो पटलित जट उत्पाद के विनिर्माण में प्रयुक्त पोलिएथिलीन फिल्म न फूलने वाली, सूचि-छिद्रों से मुक्त और अपरिक्षेपित कच्ची मामूरी, विजातीय पदार्थ की धारियां और कणों से पर्याप्त रूप से मुक्त होगी। इसमें कोई दूष्य खराबी जैसे छिद्र, खोंच या फफोला नहीं होंगे। विनिर्माण में प्रयुक्त कागज भी योपों से मुक्त होगा।”

(ii) खंड (2) में उपखंड (4) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

“(4) पोलिएथिलीन फिल्म या कागज की मोटाई और सहायता निम्नानुसार होगी:—

किस श्रेणी को लागू होगा	मोटाई	पोलिएथिलीन फिल्म या बिलेपित पोलिएथिलीन की मोटाई पर सहायता
(क) आसंजक की सहायता पोलिएथिलीन परत चढ़ा जूट का कपड़ा या पैले	(i) 100 गेज या 23.5 ग्राम/मी <sup>2</sup> से कम	± 25 प्रतिशत
	(ii) 100 गेज या 23.5 ग्राम/मी <sup>2</sup> और उससे अधिक (इसमें 12.5 ग्राम/मी <sup>2</sup> एचएसएचडी पी ई सम्मिलित है जो 100 गेज के बराबर है।	± 20 प्रतिशत
(ख) पोलिएथिलीन द्वारा बिलेपित जूट कपड़ा या थैला]	(i) 300 गेज या 70.5 ग्राम/मी <sup>2</sup> से कम	± 25 प्रतिशत
	(ii) 300 गेज या 70.5 ग्राम/मी <sup>2</sup> और उससे अधिक	± 20 प्रतिशत

(ग) पोलिथिलीन के झीले अस्तर वाले जूट के थैले	(1) 300 गेज या 70.5 ग्राम/मी <sup>2</sup> से कम	± 20 प्रतिशत
	(2) 300 गेज या 70.5 ग्राम/मी <sup>2</sup> या 400 गेज या 94.0 ग्राम/मी <sup>2</sup>	± 15 प्रतिशत

(घ) पोलिथिलीन के झीले अस्तर वाले जूट के थैले	(1) 400 गेज या 94.0 ग्राम/मी <sup>2</sup> से अधिक	± 10 प्रतिशत
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[फाइल सं. 6(14)/90-ईआई एण्ड ई पी]

S.O. 1308.—Whereas in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government has formulated certain proposals specified below for amending the Order of Government of India in the Ministry of Commerce No. S.O. 4067, dated 20th September, 1975 and has forwarded the same to the Export Inspection Council as required by sub-rule (2) of the rule 11 of the Export (Quality Control and Inspection) Rules, 1964;

Now, therefore, in pursuance of the said sub-rule, the Central Government hereby publishes the said proposals, for the information of the public likely to be affected thereby;

2. Notice is hereby given that any person desiring to forward any objection or suggestion with respect to the said proposals may forward the same within forty-five days of the date of publication of this Order in the Official Gazette to the Export Inspection Council of India, Pragati Tower (11th floor), 26, Rajindra Place, New Delhi-110008.

## PROPOSALS

In exercise of the powers conferred by Section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting the Export Inspection Council, makes the following amendment in the Order of the Government of India in the Ministry of Commerce, No. S.O. 4067 dated the 20th September, 1975, namely :—

In the said Order, in the Annexure;

(i) in clause 1, for sub-clause (2), the following shall be substituted, namely :—

“(2) Unless otherwise specified in the buyer's contract the Polyethylene film used in the manufacture of Laminated Jute Products shall be non-blooming, free from pin holes and substantially free from undispersed raw material, streak and particles of foreign matter. There shall be no visible defects such as holes, tears or blisters. The paper used in the manufacture shall also be free from defects”.

(ii) In clause 2 for sub-clause (4), the following shall be substituted, namely :—

“(4) the thickness of polyethylene film or paper and the tolerance shall be as under :—

Category of Application	Thickness	Tolerance on the thickness of polyethylene film or Coated polyethylene
1	2	3
(a) Jute Cloth or bag laminated with polyethylene using adhesive.	(i) Below 100 gauge or 23.5 gm/m <sup>2</sup> (ii) 100 gauge or 23.5 gm/m <sup>2</sup> and above. (It includes 12.5 gm/m <sup>2</sup> HMH DPE which corresponds to 100 gauge)	± 25% ± 20%
(b) Jute cloth or bag coated with Polyethylene	(i) Below 300 gauge or 70.5 gm/m <sup>2</sup> (ii) 300 gauge or 70.5 gm/m <sup>2</sup> and above.	± 25% ± 20%
(c) Jute bags using Polyethylene as loose liner.	(i) Below 300 gauge or 70.5 gm/m <sup>2</sup> (ii) 300 gauge, or 70.5 gm/m <sup>2</sup> to 400 gauge or 94.0 gm/m <sup>2</sup>	± 20% ± 15%
(d) Jute bags using polyethylene as loose liner.	(i) above 400 gauge or 94.0 gm/m <sup>2</sup>	± 10%”

[F.No. 6/14/90-E1 QEP]

प्रस्तावों की उन सीमाओं की जानकारी के लिए जिसके उनसे प्रभावित होने की संभावना है, प्रकाशित करती है।

का. भा. 1309:—केन्द्रीय सरकार, ने निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के बाणिज्य मंत्रालय के आदेश सं. का. भा. 3269 तारीख 10 अगस्त, 1983 का संशोधन करने के लिए नीचे विनिर्दिष्ट कमिषन प्रस्ताव बनाए हैं और उन्हें निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 11 के उपनियम (2) की अपेक्षाानुसार निर्यात निरीक्षण परिषद की भेज दिया है;

अतः अद्य, केन्द्रीय सरकार, उक्त उप नियम के अनुसरण में उक्त

2. सूचना दी जाती है कि उक्त प्रस्तावों के बारे में कोई आपेक्ष या सुझाव भेजने का इच्छुक कोउ व्यक्ति उन्हें इस आदेश के राजपत्र में प्रकाशन की तारीख से पैंतालीस दिन के भीतर निर्यात निरीक्षण परिषद्, प्रगति टावर, (11वीं मंजिल), 26, राजेन्द्र प्लेस, नई दिल्ली-110008 को भेज सकता है।

## प्रस्ताव

की सम्बन्ध 30 मी  
से कम न हो, अनुमानित  
वी जाएगी।"

केन्द्रीय सरकार, निम्नलिखित (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित निरीक्षण परिसर से परामर्श करने के पश्चात् भारत सरकार के वाणिज्य मंत्रालय के आदेश सं. का.प्र. 3269 तारीख 10 अगस्त, 1973 का निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त आदेश के खंड 3, में उपखंड (iv) के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :-

"(iv) जब कैंवस या तारपोलीन की क्वालिटी और या भार किसी विद्यमान परिभाषा से न मिलता हो तो अन्तर्गणन (लिरे/ड्रेसी, मीटर पिक्स/ड्रेसीमीटर) के लिए निम्नलिखित सीमाकारी कारकों पर विचार किया जाएगा: जैसे:-

तारपोलीन : कुल अन्तर्गणन प्रति वर्ग ड्रेसीमीटर 6490, और कम कैंवस : कुल अन्तर्गणन प्रति वर्ग ड्रेसीमीटर 6490, और अधिक।"

2. उक्त आदेश के उपाबंध में खंड 2, के उपखंड 2.1, में, सारणी में:-

(i) क्रम सं. 9 में मद (ख) और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:-

"(क) रोल सम्बन्धी श्रेता तथा विक्रेता के संविदा अनुसार अन्यथा मध्य संविदा के अनुसार एक लॉट (या संविदा) सहायता: के 90% रोलों के लिए जैसा कि निर्यात संविदा रोल की सम्बन्धी विनिर्दिष्ट में नियत किया गया हो,  $\pm 5\%$  होगी शेष रोलों के अथवा संविदाकारी 10 प्रतिशत या संविदा सम्बन्धी पर  $\pm 5$  की सम्बन्धी विनिर्दिष्ट प्रतिशत  $\pm 10\%$  होगी। अंकित सम्बन्धी पर  $\pm 1\%$  की सहायता माप जुड़ित बताने के लिए लागू होगी।"

(ii) क्रम सं. 11 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:-

"11. एक परीक्षण में निर्यात संविदा में अनुबद्ध निर्यात संविदा में अनुबद्ध संयोजित रोलों की संख्या के अनुसार, अन्यथा कपड़े के अनुसार: के दो टुकड़ों को जोड़कर 20% रोलों को संयोजित किया जा सकेगा। जोड़ों की संख्या तथा जोड़ों के प्रकार से संबंधित किसी अनुबद्ध की अनु-परिस्थिति में कपड़े के बिना सिने या एक साथ जुड़े 2 (दो) टुकड़ों को और प्रत्येक टुकड़े

(iii) क्रम सं. 11 और उससे संबंधित प्रविष्टि के पश्चात् निम्नलिखित अन्तःस्थापित किया जाएगा, अर्थात्:-

12. टूटन भार निर्यात संविदा के अनुसार औसत ताना की और (क) ताना की और या इस प्रयोजन के लिए तथा बाने की और खंडन (ख) बाना की और मान्य विनिर्दिष्ट मानकों भार विनिर्दिष्ट मान से के अनुसार कम नहीं होना।"

3. उक्त आदेश में खंड 2 के उपखंड 2.2 की सारणी में, क्रम सं. 11 तथा उससे संबंधित प्रविष्टि के पश्चात् निम्नलिखित अन्तःस्थापित किया जाएगा अर्थात्:-

"12. टूटन भार निर्यात संविदा के अनुसार कपड़े के ताने की (क) ताना की और फैब्रिक या इस प्रयोजन के लिए और बाने की और (ख) बाना की और फैब्रिक मान्य मानक विनिर्देशों का तथा सीबन के (ग) ताना की और सीबन के अनुसार। सीने की और और (घ) बाना की और सीबन बाने की और टूटन भार का औसत मान विनिर्दिष्ट मान से कम नहीं होगा।"

[फाइल सं. 6 (14)/90-ई आई एंड ई पी]

S.O. 1309.—Whereas in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government has formulated the proposal specified below for amending the Order of Government of India in the Ministry of Commerce No. S.O. 3269, dated 10th August, 1983 and has forwarded the same to the Export Inspection Council as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1964;

Now, therefore, in pursuance of the said sub-rule, the Central Government hereby publishes the said proposals for the information of the public likely to be affected thereby;

2. Notice is hereby given that any person desiring to forward any objection or suggestion may forward the same within in forty-five days of the date of the publication of this Order in the Official Gazette to the Export Inspection Council, Pragati Tower (11th floor), 26, Rajindra Place, New Delhi-110008.

## PROPOSALS

In exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting the Export Inspection Council, makes the following amendment in the Order of the Government of India in the Ministry of Commerce, No. S.O. 3269, dated the 10th August, 1983, namely:—

In the said Order, in clause 3, after sub-clause (iv), the following shall be substituted, namely:—

"(v) When construction and or weight of Canvas or Tarpaulin does not match any of existing definitions, the following limiting factors for interlacement (Ends/dm Picks/dm) shall be considered as:

Tarpaulin : The total interlacement per square decimetre 6490 and below;

Canvas : The total interlacement per square decimetre and above 6490."

2. In the said Order, in the Annexure, in clause 2, in sub-clause 2.1, in the table,—

(i) in SL No. 9, for item (b) and the entry relating thereto, the following shall be substituted, namely:—

"(b) Roll Length As per contract between the buyer and the seller.

As per contract otherwise the length of Roll shall be specified length  $\pm 5\%$  for

**Tolerance :**As stipulated in the export contract otherwise  $\pm 5\%$  on the contractual length.90% of the rolls in a lot (or Contract). In remaining 10% of the rolls in a lot or contract the length shall be specified length  $\pm 10\%$ .A tolerance  $\pm 1\%$  on marked length shall be applicable to provide for the measurement error."

(ii) for Sl. No. 11 and the entry relating thereto, the following shall be substituted namely :—

*11. Number of Joined rolls in a Consignment	As stipulated in the Export Contract, otherwise 20% of the rolls may be joined made 2 pieces of cloth.	As stipulated in the export Contract.  In absence of any stipulated regarding No. of joints and type of joints in the export Contract 2(two) pieces of cloth not stitched or joined together and each piece measuring not less than 30m shall be allowed".
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(iii) After Sl. No. 11 and entry related thereto, the following shall be inserted namely :—

*12. Breaking load (a) Warp way (b) Weft way	As per Export Contract or as per standard specification recognised for this purpose.	Average warp way and weft way Breaking load shall not be less than the values specified".
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3. In the said Order, in clause 2, in sub-clause 2.2 in the Table, after S.No. 11 and the entry related thereto, the following shall be inserted, namely :—

*12. Breaking load (a) Warp way fabric (b) Weft way fabric (c) Warp way seam (d) Weft way seam.	As per Export Contract or as per standard specification recognised for the purpose.	Average value of Warp way and weft way breaking load of the cloth and warp way and weft way breaking load of seam shall not be less than the value specified".
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[F.No. 6/14/90-EI&amp;EP]

का.प्र. 1310:—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अपनी यह राय होने पर कि भारत के निर्यात व्यापार के विकास के लिए ऐसा करना आवश्यक और समीचीन है भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.प्र. 245 (घ) तारीख 7 मार्च, 1988 को नीचे विनिर्दिष्ट रीति से और संशोधन करती है ।

और केंद्रीय सरकार ने, उक्त प्रयोजन के लिए नीचे विनिर्दिष्ट प्रस्ताव बनाए हैं और उन्हें निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम, 11 उपनियम (2) की अनेकानुसार निर्यात निरीक्षण परिषद् को भेज दिया है,

अतः अब केंद्रीय सरकार उक्त उपनियम के अनुसरण में उक्त प्रस्ताव को उन व्यक्तियों की जानकारी के लिए प्रकाशित करती है जिनके उनसे प्रभावित होने की संभावना है ।

2. सूचना दी जाती है कि उक्त प्रस्तावों के संबंध में कोई आप्रोप या सुझाव देने का हक्क, कोई व्यक्ति वह उन्हें इस आदेश के राजपत्र में प्रकाशित होने की तारीख से पतालीस दिनों के भीतर निर्यात निरीक्षण परिषद्, प्रगति टावर, 11वीं मंजिल, 26, राजेन्द्र प्लेस, नई दिल्ली-110008 को भेज सकेगा ।

**प्रस्ताव**

निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्यात निरीक्षण परिषद् से परामर्श करने के पश्चात्

भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.प्र. 245 (घ) तारीख 7 मार्च, 1988 का निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, "मिर्च श्रेणीकरण और चिन्हांकन नियम, 1961" शब्दों और अंकों के स्थान पर जहाँ जहाँ में पाते हैं, "मिर्च श्रेणीकरण और चिन्हांकन नियम, 1969" शब्द और अंक रखे जाएंगे ।

[काइल सं. 6 (9)/88-ई आई एण्ड ई पी]

पाद टिप्पण :— मूल अधिसूचना सं. का.प्र. 245 (घ) के अधीन 7 मार्च, 1988 को प्रकाशित की गई थी ।

S.O. 1310.—Whereas the Central Government is of opinion that in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), it is necessary and expedient further to amend the notification of the Government of India in the Ministry of Commerce No. S.O. 245(E) dated the 7th March 1988 in the manner specified below, for the development of the export trade of India;

And whereas the Central Government has formulated the proposal specified below for the said purpose and has forwarded the same to the Export Inspection Council as required by sub-rule (2) of the rule 11 of the Export (Quality Control and Inspection) Rules, 1964;

Now, therefore, in pursuance of the said sub-rule, the Central Government hereby publishes the said proposal for the information of the public likely to be affected thereby.

2. Notice is hereby given that any person desiring to forward any objection or suggestion with respect to the

said proposal may forward the same within forty five days of the date of publication of this order in the Official Gazette to the Export Inspection Council, 11th Floor, Pragati Tower, 26, Rajendra Place, New Delhi-110008.

### PROPOSAL

In exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting the Export Inspection Council, makes the following further amendment in the notification of the Government of India, in the Ministry of Commerce No. S.O. 245(E) dated the 7th March, 1988 namely :—

In the said notification for the words and figures "Pepper Grading and Marking Rules, 1961" wherever they occur, the words and figures "Pepper Grading and Marking Rules, 1969" shall be substituted.

[File No. 6]9[88-EI&EP]

FOOT NOTE.—The principal notification was published vide S.O. 245(E) dated 7-3-1988.

का.प्र. 1311:—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 17 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात् :—

1. संक्षिप्त नाम और प्रारम्भ :— (1) इन नियमों का संक्षिप्त नाम काली मिर्च का निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम 1991 है ।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे ।

2. परिभाषाएं :— इन नियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो :—

(क) "अधिनियम" से निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) अभिप्रेत है ;

(ख) "अधिकरण" से अधिनियम की धारा 7 के अधीन स्थापित निर्यात निरीक्षण अधिकरणों में से कोई एक या भारत सरकार के कृषि विपणन सलाहकार या निरीक्षण के लिए उनकी ओर से प्राधिकृत कोई अन्य अधिकारी अभिप्रेत है ;

(ग) "काली मिर्च" से काली मिर्च, साबुत या पिसी हुई अभिप्रेत है ;

(घ) "परिषद्" से अधिनियम की धारा 3 के अधीन स्थापित निर्यात निरीक्षण परिषद् अभिप्रेत है ;

3. निरीक्षण का आधार : निर्यात के लिए आशयित काली मिर्च का निरीक्षण यह देखने के लिए किया जाएगा कि वह नियम 6 के अधीन अधिकरण द्वारा अनुमोदित एककों में प्रसंस्कृत और पैक की गई है और उत्पाद अधिनियम की धारा 6 के अधीन केन्द्रीय सरकार द्वारा मान्यता प्राप्त विनिर्देशों के अनुरूप है ; या

(क) यह सुनिश्चित करते हुए कि प्रसंस्करण एकक के नियम 7 के अनुसार अधिकरण द्वारा अंतिम उत्पाद का निरीक्षण और परीक्षण करने के साथ-साथ परिवर्द्ध द्वारा समय-समय पर निर्धारित क्वालिटी नियंत्रण उपायों का भी प्रयोग किया है, उन एककों के मामले में जो नियम 4 में उल्लिखित सुविधाओं के साथ अनुमोदित हैं,

या

(ख) यह सुनिश्चित करते हुए, कि काली मिर्च के प्रसंस्करण के दौरान, नियम, 5.1 में उल्लिखित अतिरिक्त सुविधाओं और नियम 4 में उल्लिखित सुविधाओं के साथ अनुमोदित एककों के मामले में नियम 5.2 में विनिर्दिष्ट प्रक्रियागत क्वालिटी नियंत्रण का प्रयोग किया गया है -

4. प्रसंस्करण एककों के लिए न्यूनतम प्रपेक्षाएं :—

4.0 निर्यात के लिए काली मिर्च केवल अधिकरण द्वारा अनुमोदित एकक द्वारा ही प्रसंस्कृत और पैक की जाएगी । इस प्रयोजन के लिए एकक को विनिर्दिष्ट न्यूनतम सुविधाओं की व्यवस्था करेगा ।

4.1 साधारण स्वच्छता :—

4.1.1 काली मिर्च के प्रसंस्करण, भण्डारण तथा पैकिंग के प्रयोग में आने वाले सभी परिसरों का रख-रखाव स्वस्थ और स्वच्छ ढंग से होगा । धूल, मक्काड़ जाल आगस्तजनक बाह्य पदार्थ जैसे मैमेलियम उत्सर्ग, पत्थर आदि परिसरों में एकत्रित नहीं होंगे । ऐसे पदार्थों को प्रति-दिन सफाई करके निकास जाया ।

4.1.2 खुला गटर हमेशा प्रभावित होगा और साफ रखा जाएगा ।

4.1.3 परिवार में शौचालयों का रख-रखाव उच्च स्तरीय मफाई में होगा और कर्मचारियों को उनके हाथ और पैर धोने के लिए प्रवाहित पानी तथा साबुन की पर्याप्त सुविधाएं दी जाएंगी ।

4.1.4 काली मिर्च के संपर्क में आने वाली सभी मशीनों, उपकरणों, आधाओं आदि को धूल रहित तथा कीड़ों और अन्य कीटों की प्रविष्टि के बिना साफ रखा जाएगा ।

4.2 शुष्कन याई :—

4.2.1 जहाँ काली मिर्च को धूप में सुखाने के लिए खुले याई का प्रयोग किया जाता है वह सोमेट का होगा और पक्षियों के प्रवेश को पर्याप्त तरीके से रोकने के लिए उपयुक्त जानी से उचित तौर पर प्रच्छादित होगा ।

4.2.2 शुष्कन याई का खुला हिस्सा पर्याप्त उंचाई की एक ईंट वाली सोमेट की बीवार से घिरा होगा और याई के सभी खुले स्थान को, इस तरह से बंद किया जाएगा जिससे उनमें कृन्तों का प्रवेश न हो सके ।

4.3 प्रसंस्करण और भण्डारण :—

4.3.1 काली मिर्च पृथक रूप से भण्डारित की जाएगी । उस विशिष्ट क्षेत्र में जहाँ काली मिर्च भण्डारित की जाती है, अन्य उत्पाद भण्डारित नहीं किए जाएंगे ।

4.3.2 श्रेणीकरण करने के प्रयोजन हेतु अधिकृत काली मिर्चों को हाथ से छानते हुए, अधिकृत काली मिर्चों को पृथक से एकत्रित किया जाएगा और अन्य सामग्री से अलग भण्डारित किया जाएगा ।

4.3.3 अधिकृत काली मिर्चों को केवल नए गनी थैलों में भरा जाएगा और ऐसे गनी थैले ऐसे क्षेत्र में भण्डारित किए जाएंगे जहाँ अधिकृत काली मिर्च और अन्य उत्पाद भण्डारित नहीं किए गए हों ।

4.3.4 नए गनी थैलों में निर्यात के लिए पैक तैयार विहित और श्रेणीबद्ध काली मिर्चों को बीवार से 30 से.मी. दूर और नीचे की ओर लकड़ी के डनैज पर रखा जाएगा ।

4.3.5 निर्यात के लिए आशयित अन्तिम उत्पाद, उस कक्ष में उठाया धरा या भण्डारित नहीं किया जाएगा जो उस मशीन के लिए प्रयुक्त होता है जो धूल उत्पन्न करती है ।

4.3.6 मशीनों के निर्गम को, जो लघु कण, बाह्य पदार्थ तथा धूल को बाहर निकालते हैं उचित प्रकार से सुरक्षित रखा जाएगा ताकि ऐम सामग्री हवा से उड़कर अन्य क्षेत्रों में बहने न हो जाए और इन प्रकार अन्तिम उत्पाद में न मिल सके

4.3.7 लघु सामग्री को जैसे निर्यात आदि जो कि बाद में प्रसंस्करण के लिए रखे जाते हैं, अच्छी तरह बंद होने वाले उन कक्षों में भण्डारित किया जाएगा जो अधिमानतः अन्तिम उत्पाद के भण्डार से पर्याप्त दूरी पर हो ।

4.3.8 विकृत और श्रेणीबद्ध/प्रांशिक रूप से छाटा गया अन्तिम उत्पाद पत्थरों और कृतकों के उत्सर्ग आदि को हटाने के लिए हूब्य के अधीन होगा। इस प्रयोजन के लिए वही मामूली पंक्तिबद्ध कुशल कर्मकार सहित श्वेत या उपयुक्त संबंधित पृष्ठ भूमि से इस तरह से गुजरेगी जिससे यदि एक कुशलकर्मकार की दृष्टि से कृतक आदि औसल हो जाए तो बंक्ति में लगे श्रमियों के द्वारा दृष्टिगत हो सके।

4.4 पशुओं, कृतकों, पक्षियों और कीटों पर नियंत्रण:

4.4.1 परिसर के बाहरी खुलने वाले सभी खुलाब जैसे कि डार जलनिकासी नलियां आदि उपयुक्त ढिल/तार की जागी से इस तरह फिट होंगी जिससे कि जानकवरों और कृतकों आदि का प्रवेश न हो सके।

4.4.2 पक्षियों के गोबाम में प्रवेश करने वाली सभी छिड़कियों, शोभनवालों छत तथा दीवार के बीच के रिक्त स्थान और खुलाब यह सुनिश्चित करने के लिए उपयुक्त प्रकार से सुरक्षित होंगे ताकि पक्षी गोबामों में प्रवेश न कर सकें।

4.4.3 यदि गोबामों के लिए अन्तः निर्मित पाव चिन्ह दिए गए हैं तो ऐसे गोबामों के द्वार जारी तक्ते से फिट किए जाएंगे जिससे कि कृतकों का प्रवेश न हो सके।

4.4.4 कृतक और कीट प्रतिकर्मी युक्तियां उपयुक्त संख्या में गोबामों में फिट की जाएगी।

4.4.5 परिसरों में माणक औद्योगिक नियंत्रण स्वीकार्य मात्रा में रमायनों का प्रयोग करते हुए छिड़काव और धूम्रकरण द्वारा आवश्यक रूप से किया जाएगा।

5. प्रसंस्करणगत क्वालिटी नियंत्रण :-

5.1 प्रसंस्करणगत क्वालिटी नियंत्रण के लिए अनुमोदन प्राप्त करने के लिए संस्करण एकक की प्रतिरिक्त अपेक्षाएं, प्रसंस्करण एकक के पास नियम 4 में उल्लिखित अपेक्षाओं के प्रतिरिक्त निम्नलिखित सुविधाएं होंगी, अर्थात् :-

(क) प्रसंस्करण एकक के पास निर्यात के लिए कार्पा मिर्च का निरीक्षण और परीक्षण करने तथा प्रसंस्करण पैकिंग संक्रिया संवालय का पर्यवेक्षण करने के लिए मक्षम तथा अर्द्धिन शिल्प वैज्ञानिक होंगे।

(ख) ऐसे शिल्प वैज्ञानिकों के पास निम्नलिखित अर्हताएं होंगी, अर्थात् :-

(i) विज्ञान या कृषि में डिग्री

(ii) निर्यात निरीक्षण अधिकरण द्वारा मायोजित कान्नी मिर्च का क्वालिटी नियंत्रण प्रशिक्षण पाठ्यक्रम पूरा किया हो।

(ग) एकक के पास निर्यात के लिए प्राणशित कान्नी मिर्च का परीक्षण करने हेतु अपनी प्रयोगशाला होगी जिसमें सभी आवश्यक उपस्कर और रमायन होंगे।

(घ) एकक विभिन्न प्रश्नों अर्थात् कच्ची सामग्री का स्वीकार्य प्रसंस्करण पैकिंग, परिरक्षण तथा भण्डारण पर प्रयुक्त वास्तविक नियंत्रण के लिए मार्ग वर्शन हेतु क्वालिटी नियंत्रण संहिता के रूप में अधिकथित करेगा।

(ङ) प्रसंस्करण एकक प्रसंस्करणगत क्वालिटी नियंत्रण को प्रभावशाली बनाने/निर्यात के लिए लॉटों के अनुमोदन, निर्यात निरीक्षण अधिकरण से प्राप्त प्रमाणपत्रों के ब्योरे और वास्तविक निर्यात के ब्योरे के प्रयोजनार्थ पर्याप्त अभिलेख रखेगा।

5.2 प्रसंस्करण एककों के उत्तरदायित्व :- नियम 3 (ख) के अधीन निरीक्षण के आधार पर प्रसंस्करण क्वालिटी नियंत्रण के अन्तर्गत एककों के लिए उत्पाद की क्वालिटी सुनिश्चित करते हुए, प्रसंस्करण संभालनों पर कुल पर्यवेक्षण रखने का उत्तरदायित्व स्वयं प्रसंस्करणकर्ता का होगा।

इन नियमों के अधीन प्रसंस्करणकर्ता के उत्तरदायित्व नीचे दिए गए हैं, अर्थात् :-

(क) परीक्षण के प्रयोजनार्थ, नैवार उत्पाद से तथा प्रसंस्करण के विभिन्न प्रश्नों पर नमूने लेना;

(ख) परीक्षित नमूनों के परिणामों का मूल्यांकन करना, इन नमूनों की विहित विनिर्देशों से अनुसूचना विनिश्चित करना और जहाँ आवश्यक हो, उपचारी कार्य करना।

(ग) विहित विनिर्देशों से उनकी अनुसूचना की विनिश्चित करने के लिए परिणामों का मूल्यांकन करना;

(घ) यह सुनिश्चित करना कि क्या प्रसंस्कृत और पैक की गयी काली मिर्चों के लॉट नियम 7 के अधीन किए गए निरीक्षण के आधार पर निर्यात योग्य है या नहीं; और;

(ङ) परिवर्त द्वारा समय-समय पर जारी किए गए अनुदेशों का पालन करना।

6. प्रसंस्करण एकक का अनुमोदन :-

6.1 कोई प्रसंस्करणकर्ता नियम 4 में उल्लिखित सुविधाओं का नियम 4 में उल्लिखित सुविधाओं और नियम 5.1 में उल्लिखित प्रतिरिक्त सुविधाओं के साथ, नियम 3 (क) या 3 (ख) के अधीन निरीक्षण का आधार अपनाने के साथ, यथास्थिति, निर्यात के लिए काली मिर्च का प्रसंस्करण करने का इच्छुक प्रसंस्करणकर्ता परिषद् के द्वारा विहित प्रारूप में ऐसा करने के अपने प्राणय की सूचना अधिकरण के निकटतम कार्यालय को देगा। ऐसी सूचना प्राप्त होने पर, अधिकरण के अधिकारियों का एक दल प्रसंस्करण एकक का दौरा करेगा और ऐसे एकक में दी गयी सुविधाओं का निरीक्षण करेगा। यदि निर्धारण करने पर यह पाया जाता है कि एकक के पास सुसंगत नियमों के विहित अपेक्षित सुविधाएं हैं तो परिषद् द्वारा इस प्रयोजन के लिए गठित विशेषज्ञों का पैनल यह अधिनियम करेगा कि एकक में पर्याप्त सुविधाएं हैं और प्राणामी कार्यवाही हेतु अधिकरण के अनुमोदन के लिए सिफारिश करेगा। अधिकरण ऐसी सिफारिश प्राप्त होने के सात दिनों के भीतर, एकक के अनुमोदन के बारे में प्रसंस्करणकर्ता को सूचित करेगा और प्रसंस्करणकर्ता को निर्यात के लिए काली मिर्चों का प्रसंस्करण नियम 3 (क) या नियम 3 (ख) के अधीन यथास्थिति, निरीक्षण का आधार अपनाने हेतु प्रसंस्करण करने की अनुमति देगा।

6.1.1 प्रसंस्करणकर्ता को नियम 6.1 के अधीन दिया गया अनुमोदन किसी विशिष्ट एकक के लिए है। यदि प्रसंस्करणकर्ता वह परिसर खाली कर देता है जहाँ एकक काम कर रहा था, तो विधा गथा अनुमोदन स्वतः ही रद्द हो जाएगा।

6.2 अनुमोदन-एकक के अनुमोदित न होने की वशा में, प्रसंस्करणकर्ता को विशेषज्ञों के पैनल द्वारा अभिलेखित कमियों को दशति हुए लिखित में सूचना दी जाएगी। प्रसंस्करणकर्ता, ऐसी कमियों को दूर करने के पश्चात् जैसा कि विशेषज्ञों के पैनल ने सिफारिश की थी ऐसी सूचना के प्राप्त होने की तारीख से 3 महीने की अवधि के भीतर अपने द्वारा कमियां पूरी करने का ब्योरा देते हुए अधिकरण को सूचित करेगा। यह सूचना प्राप्त होने पर अधिकरण उपरोक्त नियम 6.1 में दिए गए नियम के अनुसार कदम उठावेगा।

6.3 अनुमोदन वापस लेना:

6.3.1 एकक को दिया गया अनुमोदन निम्नलिखित कारणों में किसी एक कारण से 15 दिन के अन्तर्गत अवधि की सूचना देने के पश्चात् वापस ले लिया जाएगा, अर्थात् :-

(क) यदि उपस्कर और मशीनरी कार्य करने की अवस्था में न हो;

(ख) एकक की स्वास्थ्य एवं सफाई संबंधी अवस्थाएं संतोषप्रद न हो;

(ग) प्रसंस्करणकर्ता ने नियमों और अनुदेशों के उपबंधों का उल्लंघन किया हो या जानबूझकर उल्लंघन करने का प्रयत्न किया हो ;

6.3.2 अनुमोदित इस प्रकार वापिस लेने की सूचना प्रसंस्करणकर्ता को लिखित रूप में दी जाएगी।

6.3.3 एकक, जिसका अनुमोदन वापिस ले लिया गया हो, वृत्तियों का सुधार करने के पश्चात् अनुमोदन वापिस लिए जाने की तारीख से तीन महीने की अवधि के समाप्त होने के पश्चात् नया अनुमोदन प्राप्त करने के लिए अभिकरण को नया आवेदन देना।

6.3.4 यदि किसी भी समय, एकक के लिए प्रसंस्करणकर्ता क्वालिटी नियंत्रण प्रणाली को जारी रखने के लिए न्यूनतम अपेक्षाओं को रखने में कोई कठिनाई होती है तो क्वालिटी नियंत्रण प्रणाली के अधीन प्रसंस्करण और निर्यात अभिकरण को सूचना देते हुए रोक दिया जाएगा।

6.3.5 निर्यात के लिए प्रसंस्करण का पुनः प्रारम्भ केवल तभी किया जाएगा जब उसका अभिकरण द्वारा लिखित रूप में अनुमोदन कर दिया गया हो।

6.4 निर्यात निरीक्षण परिषद् द्वारा किए जाने वाले नियंत्रण :—

6.4.1 निर्यात निरीक्षण अभिकरण के प्राधिकृत अधिकारी एककों का कालिक दौरा यह सुनिश्चित करने की दृष्टि से करेंगे कि एकक में आवश्यक सुविधाओं को बनाए रखा है और यह निर्धारित क्वालिटी नियंत्रण विधियों का प्रयोग कर रहा है और परिषद् द्वारा समय-समय पर अधिकृत प्रक्रिया के अनुसार निरीक्षण और परीक्षण कर रहा है।

6.4.2 ऐसे दौरों के दौरान, अधिकारी निर्यात निरीक्षण अभिकरण की प्रयोगशाला में जांच करने हेतु एकक से नमूने भी ले सकेगा।

6.4.3 अधिकारी एककों में अपने दौरों के दौरान, एककों में रखे गए विभिन्न रजिस्ट्रों को भी सत्यापन करेंगे और तारीख सहित प्रति हस्ताक्षर करेंगे।

6.4.4 दौरों के दौरान अधिकारी अपने संक्षेपण इस प्रयोजनार्थ यूनिट में रखे गए रजिस्टर में अभिलिखित करेंगे और तारीख सहित विवरित हस्ताक्षर करेंगे।

6.4.5 एकक में कालिक का दौरा करने वाला अधिकारी रिपोर्ट तैयार करेगा और उस रिपोर्ट को अभिकरण के अध्यक्ष को प्रस्तुत करेगा।

6.4.6 कालिक दौरों के दौरान यदि कोई बिसंगति पाई जाती है तो वह एक सप्ताह के भीतर प्रसंस्करणकर्ता को उसकी टिप्पणी मांगते हुए संसूचना देगा। यदि टिप्पणी संतोषजनक नहीं है तो अभिकरण अनुवर्ती कार्रवाई करेगा और यदि आवश्यक हुआ विशेषज्ञों के पैल को मामला भेज देगा।

6.5 अनुमोदित प्रसंस्करणगत क्वालिटी नियंत्रण एककों का पुनर्विलोकन

6.5.1 प्रसंस्करण क्वालिटी नियंत्रण एककों के संचालन का वर्ष में कम से कम एक बार विशेषज्ञों के पैल द्वारा पुनर्विलोकन किया जाएगा। ऐसा करते समय, पूर्ववर्ती काल के दौरान एककों के काम पर विचार किया जाएगा और नियम 6.1 के अधीन दिया गया प्रसंस्करणगत क्वालिटी नियंत्रण अनुमोदन जारी रखा जाए या वापिस लिया जाए इस बात को विनिश्चित सिफारिश की जाएगी।

6.5.2 यदि प्रसंस्करणकर्ता का अनुमोदन वापिस ले लिया जाता है तो प्रसंस्करणकर्ता परेक्षणवार निरीक्षण के अधीन निर्यात करने का पात्र होगा।

7 निरीक्षण :—निर्यात के लिए आशयित प्रत्येक लाट/परेषण का निरीक्षण नमूना लेने तथा परीक्षण की उस प्रक्रिया को अपनाते हुए किया जाएगा जिसे परिषद् द्वारा समय-समय पर अनुमोदित तथा परिष्कृत किया जाएगा।

8. निरीक्षण की प्रक्रिया :—

8.1 काली मिर्च के निर्यात करने का इच्छुक निर्यातकर्ता निर्यात के लिए आशयित परेषण का विवरण देते हुए अभिकरण को या अभिकरण द्वारा प्राधिकृत अधिकारी को आवेदन प्रस्तुत करेगा।

8.2 नियम 8.1 के अधीन आवेदन निर्यात के लिए लवाई की प्रारम्भिक तारीख से कम से कम 7 दिन पूर्व दिया जाएगा।

8.3 नियम 8.2 के अधीन आवेदन प्राप्त होने पर, अभिकरण निर्यात निरीक्षण परिषद् द्वारा इस निमित्त समय-समय पर जारी किए गए अनुदेशों के अनुसार काली मिर्च के परेषण का निरीक्षण यह देखने के विचार से करेगा कि परेषण सुसंगत विनिर्देशों के अनुसार प्रसंस्कृत और पैक किया गया है। निर्यातकर्ता अभिकरण को ऐसी सभी सुविधाएं देगा जिससे कि अभिकरण निरीक्षण कर सके।

8.4 यदि निरीक्षण के पश्चात् अभिकरण का यह समाधान हो जाता है कि निर्यात किए जाने वाली काली मिर्च विनिर्देशों की अपेक्षाओं के अनुरूप है तो यह सूचना की प्राप्ति के सात दिनों के भीतर यह घोषणा करते हुए प्रमाण-पत्र जारी कर देगा कि परेषण निर्यात योग्य है।

8.5 यदि अभिकरण का ऐसा समाधान नहीं होता है तो वह सात दिनों की उक्त अवधि के भीतर ऐसा प्रमाण-पत्र देने से इंकार कर देगा और ऐसे इंकार की लिखित सूचना उसके कारणों सहित निर्यातकर्ता को देगा।

8.6 प्रमाणीकरण के पश्चात् अभिकरण को पोत लदान से पहले भांडागार के स्थान, अभिवहन या पत्तों पर परेषण की क्वालिटी पुनः निर्धारित करने का अधिकार होगा।

8.7 इनमें से किसी भी प्रक्रम पर परेषण के मानक विनिर्देशों के अनुरूप न पाए जाने की वशा में मूलतः जारी किया गया निरीक्षण प्रमाण-पत्र वापिस ले लिया जाएगा।

9. निरीक्षण का स्थान :—

9.1 इन नियमों के प्रयोजनों के लिए काली मिर्च का निरीक्षण प्रसंस्करणकर्ता के अनुमोदित एकक और/या अभिकरण की प्रयोगशाला में किया जाएगा। प्रसंस्करणकर्ता, अभिकरण को सभी आवश्यक सुविधाएं देगा। ताकि ऐसा निरीक्षण किया जा सके।

9.2 नियम 8.4 के अधीन प्रमाणीकरण के पश्चात् अभिकरण को परेक्षण के स्थान पर, परिवहन में या पत्तन पर प्रमाणित परेषण की क्वालिटी पुनः निर्धारित करने का अधिकार होगा। ऐसे पुनः निर्धारण पर यदि यह पाया जाता है कि परेषण सुसंगत विनिर्देशों के अनुरूप नहीं है तो मूलतः जारी प्रमाण-पत्र अभिकरण द्वारा या तो संशोधित किया जाएगा, निर्रहित या रद्द कर दिया जाएगा।

10. निरीक्षण फीस :—

10.1 परेक्षणवार निरीक्षण और प्रसंस्करणगत क्वालिटी नियंत्रण के लिए फीस न्यूनतम 50—रु. प्रति परेषण के अधीन रहते हुए परेषण के पोत पर्यन्त निःशुल्क मूल्य के 0.4 प्रतिशत और 0.2 प्रतिशत की दर से क्रमशः निरीक्षण फीस अभिकरण को दी जाएगी।

टिप्पण :—निर्यातकर्ता द्वारा देय प्रत्येक परेषण के लिए निरीक्षण फीस की रकम को निकटतम रूप तक पूर्णांकित किया जाएगा और इस प्रयोजन के लिए जहाँ ऐसी रकम रूप के भाग के रूप में है तो यदि ऐसा भाग पचास पैसे या इससे अधिक है तो, यह एक रूपया कर दिया जाएगा और यदि ऐसा भाग पचास पैसे से कम है तो इसे छोड़ दिया जाएगा।

11. अपील :—(क) निम्नलिखित द्वारा व्यक्त कोई व्यक्ति

(1) नियम 6.1 के अधीन अभिकरण द्वारा एकक को अनुमोदित न देने का विनिश्चय।



(2) नियम 3.3 के अधीन एकक को दिया गया अनुमोदन वापिस लेने के अधिकरण का विनिश्चय।

(3) नियम 7 के अधीन अधिकरण द्वारा निरीक्षण प्रमाण-पत्र जारी करने में इंतजार ऐसे विनिश्चय या इंतजार की सूचना प्राप्त होने के उस दिन के भीतर इस प्रयोजन के लिए केन्द्रीय सरकार द्वारा नियुक्त अपीलीय अधिकरण को जिसमें कम से कम तीन और अधिक से अधिक सात व्यक्ति होंगे, अपील कर सकेगा।

(ख) अपीलीय अधिकरण के कुल सदस्यों में से कम से कम दो तिहाई सदस्य गैर सरकारी होंगे।

(ग) अपीलीय अधिकरण की गणपूर्ति

(i) ऐसे मामले में जहाँ अपीलीय अधिकरण के तीन या चार सदस्य हों दो और

(ii) अन्य किसी मामले में तीन होगी।

(घ) अपील प्राप्त होने के 15 दिन के भीतर निपटा दी जाएगी।  
[फाइनल स. 6 (9)/88-ई आई एण्ड ईपी]  
ए. के. चौधरी, निदेशालय

टिप्पण :—मूल आदेश का भा. 245 (ई) तारीख 7-3-88 को प्रकाशित किया गया।

S.O. 1311.—In exercise of the powers conferred by section 17 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.—(1) These rules may be called the Export of Black Pepper (Quality Control and Inspection) Rules, 1991.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions.—In these rules, unless the context otherwise requires,—
  - (a) "Act" means the Export (Quality Control and Inspection) Act, 1963 (22 of 1963);
  - (b) "Agency" means any one of the Export Inspection Agencies established under section 7 of the Act or the Agricultural Marketing Adviser to the Government of India or any other officer authorised on his behalf for inspection;
  - (c) "Black Pepper" means Black Pepper, whole or ground;
  - (d) "Council" means the Export Inspection Council established under section 3 of the Act;
3. Basis of Inspection.—Inspection of Black Pepper intended for export shall be carried out with a view to seeing that the same has been processed and packed in units approved by the Agency under rule 6 and that the products conform to the specifications recognised by the Central Government under section 6 of the Act either—

- (a) by ensuring that the processing unit has carried out the quality control measures prescribed by the Council from time to time as well as inspection and testing of finished product by the Agency as per rule 7 in the case of units approved with facilities mentioned in rule 4;

#### OR

- (b) by ensuring that during processing of Black Pepper the In-process quality control, as specified in rule 5.2 has been exercised in the case of units approved with facilities under rule 4 and additional facilities mentioned in rule 5.1;

#### 4. MINIMUM REQUIREMENTS FOR PROCESSING UNITS :

4.0 Black Pepper shall be processed and packed for export only by a unit approved by the Agency. For this purpose, the unit shall satisfy the minimum facilities as specified below :—

##### 4.1 General Sanitation :

4.1.1 The entire premises used for processing, storage and packing Black Pepper shall maintained in good hygienic and sanitary conditions. Accumulations of dust, cobwebs, objectionable foreign matters, like mammalian excreta, stone, etc., shall not be present in the premises. Such materials shall be removed on a daily cleaning schedule.

4.1.2 Open gutters shall be flushed and always kept clean.

4.1.3 Toilets in the premises shall be maintained with a high degree of cleanliness and adequate facilities provided for workers to wash their hands and feet with running water and soap.

4.1.4 All machines, equipments, utensils, etc. coming in contact with pepper shall be maintained clean without permitting dust accumulation and harbourage of insects and other pests.

##### 4.2 Drying Yard :

4.2.1 The open yard used for sun drying of Black Pepper shall be cemented and properly covered by suitable netting, adequate to prevent entry of birds.

4.2.2 Open sides of the drying yard shall be skirted by cemented single brick wall of sufficient height and all openings to the yard suitably closed in order to prevent entry of rodents into the yard.

##### 4.3 Processing and Storage :

4.3.1 Black Pepper shall be stored separately. In the particular area where Black Pepper is stored, other products shall not be stored.

4.3.2 While hand-sieving ungarbled pepper for the purpose of grading, the graded pepper shall be collected distinctly and stored away from other materials.

4.3.3 Garbled pepper shall be filled only in new gunny bags and such gunny bags stored in an area in which ungarbled pepper and other products are not stored.

4.3.4 The garbled and graded pepper packed in new gunny bags ready for export shall be stacked 30 centimetre away from walls and on wooden dunnage at the bottom.

4.3.5 Final products meant for export shall not be handled or stored in the room used for machines that generate dust.

4.3.6 Outlet of machines that bring out light particles, extraneous matters and dust shall be properly secured to avoid such materials being wind-blown or otherwise carried into other areas and thus being admixed with final products.

4.3.7 Light material, such as pin-heads, etc. that may be retained for processing later, shall be stored in a well-closed room preferably quite away from the final produce godown.

4.3.8 The final produce, garbled and garden/mechanically sorted, shall be subjected also to careful visual examination to pick left over stones and rodent excreta, etc. For this purpose the same material shall be passed against a white or other suitable contrast background with skilled workers standing in a row in such a way that the rodent pottlets, etc. that escape the vision of one skilled worker may be seen and picked by others in the row.

##### 4.4 Control of Animals, Rodents, Birds and Pests :

4.4.1 All openings leading to outside of the premises, such as, gates, drain outlets, etc. shall be got fitted with suitable wire meshes to prevent entry of animals and rodents, etc.

4.4.2 All windows, ventilators, gaps between the roof and wall and other openings that permit entry of birds into the godown shall be suitable secured to ensure that birds do not enter the godowns.

4.4.3 If built-in foot-steps have been provided for godowns, doors of such godowns shall be fitted with trap-planks that prevent entry of rodents.

4.4.4 Suitable number of rodent and pest repeller devices of required rating shall be fitted in all godowns.

4.4.5 Periodic pest control of the premises by spraying or fumigation shall be done using permitted chemicals in acceptable dosage.

#### 5. IN-PROCESS QUALITY CONTROL :

5. Additional requirements of processing units for the purpose of approval under In-process Quality Control the processing unit shall have the following facilities in the unit in addition to those mentioned in rule 4, namely :—

- (a) the processing unit shall have a competent and qualified technologist to supervise processing packing operation and to conduct inspection and testing of Black Pepper for export;
- (b) such technologist shall possess the following qualifications namely :—
  - (i) a degree in Science or Agriculture;
  - (ii) successfully completed the training course in Quality Control of Black Pepper organised by the Export Inspection Agency;
- (c) the unit shall have its own laboratory with all the necessary testing equipments and chemicals to carry out testing of Black Pepper meant for export;
- (d) the unit shall lay down guidelines for actual controls to be exercised at various stages, viz. acceptance of raw material, processing, packing, preservation and storage in the form of a quality control manual;
- (e) the unit shall maintain adequate records for the purpose of effective monitoring of in-process controls, approval of lots for export, details of certificates obtained from Export Inspection Agency and the particulars of actual exports.

5.2 Responsibilities of the processing unit—For units approved under In-process Quality Control with basis of inspection under rule 3(b), exercising total surveillance of the entire processing operations to ensure quality of the product shall be the responsibility of the processor himself. The responsibilities of the processor under these rules are as given below, namely :—

- (a) to draw samples at various stages of processing and from the finished product, for the purpose of tests;
- (b) to evaluate the results of the samples tested, to decide on the conformity of these samples to the prescribed specifications, and to take remedial action, wherever necessary;
- (c) evaluation of results to decide their conformity with the prescribed specifications;
- (d) to decide whether the lots of Black Pepper processed and packed are exportworthy or not on the basis of inspection carried out under rule 7 and;
- (e) to carry out the instructions issued by the Council from time to time.

#### 6. APPROVAL OF PROCESSING UNIT :

6.1 A processor intending to process Black Pepper for export either with facilities mentioned in rule 4 or with facilities mentioned in rule 4 and additional facilities mentioned in rule 5.1, adopting the basis of inspection under

rule 3(a) or 3(b); as the case may be shall intimate about his intention to do so in the proforma prescribed by the Council the nearest office of the Agency. On receipt of such intimation, a team of officers of the agency shall visit the processing unit and assess the facilities provided in such unit. If, on assessment, the unit is found to have the requisite facilities as prescribed in the relevant rules, a panel of experts constituted for the purpose by the Council shall adjudge the adequacy of the facilities in the unit and recommend approval to the agency for further necessary action. The agency shall, within seven days of receipt of such recommendation, communicate to the processor the approval of the unit and permit the processor to process Black Pepper export adopting the basis of inspection under rule 2(a) or under rule 3(b), as the case may be;

6.1.1 The approval accorded under rule 6.1 to the processor is for a particular unit. In case the processor vacates the premises where the unit is functioning, the approval accorded shall automatically be cancelled.

6.2 Non-approval.—In case the unit is not approved, it shall be communicated to the processor in writing pointing out the deficiencies recorded by the panel of experts. A processor, after rectifying such deficiencies, as recommended by the panel of experts shall intimate the agency within a period of three months from the date of receipt of such communication the details of rectifications of the deficiencies carried out by him. On receipt of this intimation, the agency shall take the steps as in rule 6.1 above.

#### 6.3 Withdrawal of Approval :

6.3.1 The approval accorded to a unit shall be withdrawn for any of the following reasons, after giving notice of period of not less than 15 days, namely :—

- (a) the equipment and machinery are not in working condition;
- (b) the sanitary and hygienic conditions of the unit are not satisfactory;
- (c) the processor has violated, or deliberately attempted to violate, the provisions of the rules and instructions.

6.3.2 Such withdrawal of approval shall be intimated in writing to the processor.

6.3.3 A unit the approval of which has been withdrawn, may, after rectifying the defects, make a fresh application to the Agency for obtaining fresh approval, after a lapse of three months from the date of such withdrawal.

6.3.4 If, at any time there is any difficulty for a unit in maintaining the minimum requirements to continue under in-process quality control system, processing and export under in-process quality control system shall be suspended under intimation to the Agency.

6.3.5 The processing for export shall be resumed only after the same is approved by the Agency in writing.

#### 6.4 Controls to be Exercised by Export Inspection Council.

6.4.1 The authorised Export Inspection Agency officers shall undertake periodic visits to a unit with a view to ensure that the unit is maintaining the requisite facilities and it is exercising the prescribed quality control drills and conducting the inspection and testing as per the procedure laid down by the Council from time to time.

6.4.2 During such visits, the officers may also draw samples from the units to check the same in Export Inspection Agency Laboratory.

6.4.3 The officers during their visits to the unit shall verify the various registers maintained in the unit and countersign them with date.

6.4.4 The officers shall also record their observations during the visits in a register maintained in the unit for the purpose, duly signed with date.

6.4.5 The officers who undertake periodic visits to the units shall prepare a report and submit the same to the head of the Agency.

6.4.6 If any discrepancy is noticed during periodic visits, the same shall be communicated to the processor, within one week, seeking his comments. If the comments are not satisfactory, the Agency shall take follow-up action and may refer the matter to the panel of experts, if necessary.

#### 6.5 Review of Approved In-Process Quality Control Units.

6.5.1 The operation of an In-process quality control unit shall be reviewed at least once in a year by the panel of experts. While doing so, the performance of the unit during the proceeding period shall be taken into consideration and specific recommendation made to continue or to withdraw the In-process quality control approval accorded under rule 6.1.

6.5.2 If the approval of a processor is withdrawn, the processor shall be eligible to export under consignment-wise inspection.

7. INSPECTION.—Inspection of each lot/consignment meant for export shall be carried out adopting the procedures of sampling and testing, approved and circulated by the Council from time to time.

#### 8. PROCEDURE FOR INSPECTION :

8.1 Any exporter intending to export Black Pepper shall submit an application to the Agency, or an officer of the Agency authorised by it in this behalf, giving particulars of the consignment intended to be exported.

8.2 An application under rule 8.1 shall be made not less than seven days before the date of commencement of loading for export.

8.3 On receipt of the application under rule 8.2, the Agency shall inspect the consignment of Black Pepper as per the instructions issued by the Council in this behalf from time to time, with a view to satisfying itself that the consignment has been processed and packed according to relevant specifications. The exporter shall provide all necessary facilities to the Agency to enable it to carry out such inspection.

8.4 If, after inspection, the Agency is satisfied that the consignment of Black Pepper to be exported complies with the requirements of the specifications, it shall within seven days of the receipt of intimation, issue a certificate declaring the consignment as exportworthy.

8.5 If the Agency is not so satisfied, it shall, within the said period of seven days, refuse to issue such certificate and communicate such refusal to the exporter in writing along with the reasons therefor.

8.6 Subsequent to certification, the Agency shall have the right to reassess the quality of the consignment at any place of storage, in transit, or at the port before its actual shipment.

8.7 In the event of the consignment being found not conforming to the standard specifications at any of these stages, the certificate of inspection originally issued shall be withdrawn.

#### 9. PLACE OF INSPECTION :

9.1 The Inspection of Black Pepper for the purpose of these rules shall be carried out at the approved unit of the processor and/or at the laboratory of the Agency. The processor shall provide all necessary facilities to the Agency to enable it to carry out such inspection.

9.2 Subsequent to certification under rule 8.4, the Agency shall have the right to reassess quality of the certified consignment at the place of storage, in transit or at the port. In the event of the consignment being found not conforming to the relevant specifications on such reassessment, the certificate originally issued shall be either amended, suspended or cancelled by the Agency.

#### 10. INSPECTION FEE :

10.1 Subject to a minimum of Rs. 50 for each consignment, a fee at the rate of 0.4 per cent and 0.2 per cent of the F.O.B. Value of the consignment shall be paid to the Agency as inspection fee for consignmentwise inspection and In-process quality control inspection respectively.

NOTE.—The amount of inspection fee for each consignment payable by the exporter shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored.

#### 11. APPEAL.—(a) Any person aggrieved by—

(i) the decision of the Agency not to accord approval to unit under rule 6.1;

(ii) the decision of the Agency to withdraw the approval, accorded to a unit, under rule 6.3.

(iii) refusal of the Agency to issue a certificate of Inspection under Rule 7;

may, within 10 days of the receipt of the communication of such decision or refusal prefer an appeal to an appellate authority consisting of not less than three but not more than seven person appointed for the purpose by the Central Government.

(b) At least two-third of the total membership of the appellate authority shall consist of non-officials.

(c) The quorum of the appellate authority shall be,—

(i) in a case where the appellate authority consist of three members or four members, two, and

(ii) in any other case, three.

(d) The appeal shall be disposed of within 15 days of its receipt.

[File No. 6/9/88-EL&EP]

A. K. CHAUDHURI, Director

NOTE.—The principal order was published vide S.O. 245(E) dated 7-3-88,

( मुख्य निर्यातक आयात-निर्यात का कार्यालय )

आदेश

नई दिल्ली, 24 मई, 1991

का. मा. 1312 :—मै. सिवालिक बीडियो कम्प्यूनिक्शंस ( प्रा. ) लि., न्यू हिमराज बिल्डिंग, कार्टे रोड, शिमला, हिमाचल प्रदेश को मुक्त विदेशी मुद्रा के अन्तर्गत अपने बंडी सर्विस के लिए एंजीगल भाव अर्थात् बायर रैप टूल्स के आयात के लिए 5,18,220/- रुपये ( पांच लाख अठ्ठासह हजार दो सौ बीस रुपये मात्र ) का एक आयात लाइसेंस सं. पी/सीजी/2126276/सीएसएस/16/एच/90 सीजी—3 दिनांक 20-6-1990 प्रदान किया गया था। फर्म ने लाइसेंस के पूर्ण मूल्य अर्थात् 5,18,220—रुपये ( पांच लाख अठ्ठासह हजार दो सौ बीस रुपये मात्र ) के लिए लाइसेंस की सीमाशुल्क प्रयोजन प्रति घीर मुद्रा नियंत्रण प्रति की अनुविधि प्रति जारी करने के लिए यह उल्लेख करते हुए आवेदन किया है कि मूल लाइसेंस ( सी पी सी घीर ई सी प्रति ) खो गया है/गुम हो गया है। यह भी बताया गया है कि उक्त लाइसेंस को किसी सीमाशुल्क प्राधिकारी से पंजीकृत नहीं कराया गया है।

2इ अपने तर्क के समर्थन में लाइसेंसधारी ने बीडरी पब्लिक के समक्ष विशिष्ट शपथ लेकर स्टाम्प पेपर पर एक हलफनामा वाकिल किया है। तबनुसार मैं संतुष्ट हूँ कि फर्म से मूल लाइसेंस ( सीमाशुल्क प्रयोजन प्रति घीर मुद्रा नियंत्रण प्रति ) ( स. पी/सीजी/2126276 सी/एसएस/16/एच/ 90/सी जी—3, दिनांक 20-6-1990 ) को

गुम हो गया है। यथासंशोधित आयात (नियंत्रण) आदेश, 1955 विनांक 7-12-1955 के उपखण्ड 9 (ब) के अन्तर्गत प्रवृत्त अधिकारों का प्रयोग करते हुए, मै. शिवालिक वीडियो कम्युनिकेशंस (प्रा.) लि., न्यू हिमरस बिल्डिंग, कार्ट रोड, शिमला, हिमाचल प्रदेश को जारी लाइसेंस सं. पी/सी जी/2226276/सी/एक्स एक्स/16/एच/90/सी जी-3 (सीमाशुल्क तथा मुद्रा नियंत्रण प्रति दोनों), विनांक 20-6-1990 को एतद्वारा निरस्त किया जाता है।

3. पार्टी को लाइसेंस की दूसरी प्रति अलग से जारी की जा रही है।

[फा. सं. सी जी-3/174/6/89/90/1081]

एस. के. भारद्वाज, उप मुख्य नियंत्रक आयात-निर्यात  
कृते मुख्य नियंत्रक आयात-निर्यात

(Office of the Chief Controller of Imports & Exports)

### ORDER

New Delhi, the 24th April, 1991

S.O. 1312.—M/s. Shivalik Video Communications (P) Ltd., New Himrus Building, Cart Road, Shimla, H.P., were granted an import licence No. P/CG/2126276/C/XX/16/H/90/CG.III dt. 20-5-90 for Rs. 5,18,220 (Rs. Five lakhs eighteen thousand two hundred & twenty only), for import of Capital Goods i.e. Wire Wrap Tools in their Baddi Plant, under free foreign exchange. The firm has applied for issue of Duplicate Licence Custom Purposes Copy for full value of Rs. 5,18,220 and Exchange Control Copy for Rs. 5,18,220 (Rs. five lakhs eighteen thousand two hundred & twenty only), stating that the Original licence (OCP & EC Copy), have been lost/misplaced. It has further been stated that the above noted licence has not been registered with any Customs Authority.

2. In support of their contention, the licence has filed an affidavit on stampde paper duly sworn in before a Notary Public. I am accordingly satisfied that the original licence (Custom Purpose Copy & Exchange Control Copy) No. P/CG/2126276/C/XX/16/H/90/CG.III dt. 20-6-1990 has been lost/misplaced by the firm. In exercise of the powers conferred under Sub-Clause 9(d) of the Import (Control) Order, 1955 dated 7-12-1955 as amended the licence No. P/CG/2126276/C/XX/16/H/90/CG.III (both Custom & Exchange Control Copy) dated 20-6-1990 issued to M/s. Shivalik Video Communications (P) Ltd., New Himrus Building, Cart Road Shimla, Himachal Pradesh is hereby cancelled.

3. A duplicate copy of the licence are being issued to the party separately.

[F. No. CG.III/174/6/89-90-1081]

S. K. BHARDWAJ, Dy. Chief Controller of Imports & Exports for Chief Controller of Imports & Exports

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 18 अप्रैल, 1991

का. भा. 1313:—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाय अनुसूची में उल्लिखित भूमि में कोयला अधिप्राप्त किए जाने की संभावना है;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है;

इस अधिसूचना के अधीन आने वाले क्षेत्रों के सं. एस. ई. सी. एल. / बी. एस. पी. / ए. सी. एम. ई. / एल. ई. आर. / भूमि / 83 तारीख 24 नवम्बर, 1990 का निरीक्षण साउथ ईस्टर्न कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495001 (मध्य प्रदेश) के कार्यालय में या कलक्टर सरगुजा (मध्य प्रदेश) या कलक्टर राहडोल (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अधीन आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, उप मुख्य संपदा प्रबंधक साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर (मध्य प्रदेश) को भेजेंगे।

अनुसूची

अमृतधारा और सिरिया ब्लाक

हसदेव क्षेत्र

जिला—राहडोल और सरगुजा (मध्य प्रदेश)

प्लान सं. एस ई सी एल/बी एस पी/ए सी एम ई/एल ई आर/भूमि/83

(पूर्वक्षण के लिए अधिसूचित भूमि की वरति हुए)

राजस्व भूमि

क्र. सं.	ग्राम/मोजा	सेटलमेंट सं.	तहसील
1.	डूमरकठार	404	कोटमा
2.	मालगा	826	कोटमा
3.	भाटी सराय	790	कोटमा
4.	टाकी	376	कोटमा

जिला	क्षेत्र/हेक्टरों में	टिप्पणी
राहडोल	104.118	भाग
राहडोल	1773.289	भाग
राहडोल	943.809	सम्पूर्ण
राहडोल	926.929	"

कुल क्षेत्र : 3748.145 हेक्टर (लगभग)

वन भूमि

क्र. वन का नाम तहसील जिला क्षेत्र/हेक्टरों में टिप्पण सं० रेंज

1.	कोरा	चिरीमिरी मानेंगगड़ सरगुजा	366.653	भाग
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(आरक्षित वन)

कुल क्षेत्र : 366.653 हेक्टर (लगभग)

कुल योग : 4114.798 हेक्टर (लगभग)

या 10,167.66 एकड़ (लगभग)

नोटा दर्शन :

क-ख

रेखा, राहडोल और सरगुजा जिलों की सम्मिलित सीमा पर "क" बिन्दु से आरंभ होती है और सरगुजा जिले के कोरा वन से गुजरती है और भागतः सरगुजा राहडोल जिलों की सम्मिलित सीमा से गुजरती हुई बिन्दु "ख" पर मिलती है।

ख-ग	रेखा शाहदोल और बिलासपुर जिलों की सम्मिलित सीमा से भागतः गुजरती है और बिन्दु "ग" पर मिलती है।	ख-क	रेखा, भागतः उत्तरी सीमा से गुजरती है और मालगा ग्रामों से गुजरती है और आरम्भिक बिन्दु "क" पर मिलती है।
ग-घ	रेखा टांकी, भाटीसराय, मालगा ग्रामों की पश्चिमी सीमा के साथ-साथ चलती है और बिन्दु "घ" पर मिलती है।		[मं. 43015/25/90 एल. एस. डब्ल्यू.] श्री. श्री० राव, प्रवर सचिव

## MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 18th April, 1991

S.O. 1313.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. SECL/BSP/ACME/LER/LAND/83 dated the 24th November, 1990 of the area covered by this notification can be inspected in the Office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495001 (Madhya Pradesh) or in the Office of the Collector, Surguja (Madhya Pradesh) or in the Office of the Collector, Shahdol (Madhya Pradesh) or in the Office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Deputy Chief Estate Manager, South Eastern Coalfields Limited, Seepat Road, Bilaspur (Madhya Pradesh) within ninety days from the date of publication of this notification in the Official Gazette.

## SCHEDULE

AMRITDHARA AND JHYRIA BLOCKS  
HASDEO AREA

## DISTRICT-SHAHDOL AND SURGUJA (MADHYA PRADESH)

Plan No. SECL/BSP/ACME/LER/LAND/83  
dated the 24th November, 1990  
(Showing the land being notified for prospecting)

## Revenue Land

Sl. Village/Mouja No.	Settlement Number	Tehsil	District	Area in Hectares	Remarks
1. Dumarkachhar	404	Kotma	Shahdol	104.118	Part
2. Malga	826	Kotma	Shahdol	1773.289	"
3. Bhatisarai	790	Kotma	Shahdol	943.809	Full
4. Tanki	376	Kotma	Shahdol	926.929	"
Total :—				3748.145 hectares (approximately)	

## Forest Land

Sl. Name of Forest No.	Range	Tahsil	District	Area in hectares	Remarks
1. Kora (Reserved Forest)	Chirmiri	Manendragarh	Surguja	366.653	Part
Total :—				366.653 hectares (approximately)	
Grand Total:—				4114.798 Hectares (approximately) OR 10,167.66 Acres (approximately)	

## Boundary Description :—

A-B	Line starts from point 'A' on the common boundary of Shahdol and Surguja districts and passes through Kora Reserved Forest of Surguma district and partly along the common boundary of Surguja-Shahdol district and meets at point 'B'.
B-C	Line passes partly along the common boundary of Shahdol and Bilaspur districts and meets at point 'C'.
C-D	Line passes along the western boundary of villages Tanki, Bhatisarai, Malga and meets at point 'D'.
D-A	Line passes partly along the northern boundary and through village Malga and meets at the starting point 'A'.

[No. 43015/25/90-LSW]

B. B. Rao, Under Secy.

## पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 22 दिसम्बर, 1989

का. भा. 1314 :—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. भा. 2514 तारीख 7-10-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार को पाइपलाइनों की बिछाने के लिए अर्जित करने का अपना प्राश्य घोषित कर दिया था।

और यतः मन्त्रम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्वेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

## अनुसूची

चोफारी टी बिन्दु से जिप्सो तक पाइप लाईन बिछाने के लिए

राज्य : गुजरात	जिला व तालुका : बड़ोदरा	गांव	सं. नं.	हेक्टर	आर	सेन्टीयर
1	2	3	4	5		
सेबासी	काटेंद्रक	0	02	00		
	783	0	20	50		
	784	0	16	90		
	782	0	09	10		
	781	0	09	45		
	774	0	05	20		
	775	0	17	50		
	806	0	03	95		
	807	0	23	10		
	806	0	04	30		

1	2	3	4	5
सेबासी	812	0	13	50
	813	0	06	40
काटेंद्रक		0	01	00
	814	0	08	90
	838	0	07	90
	837	0	19	80
	835	0	12	50
	834	0	01	10
	873	0	06	70
	874	0	18	12
	876	0	28	80
काटेंद्रक		0	02	20
	875	0	01	55

[सं. ओ-11027/95/89—ओ एन जी -डी-III]

के. विवेकानन्द, हेड अधिकारी

## MINISTRY OF PETROLEUM &amp; NATURAL GAS

New Delhi, the 22nd December, 1989

S.O. 1314.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2514, dated 7-10-1989 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government.

And Further, Whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification ;

Now therefore, in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And Further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

## PIPELINE FROM CHOKARI T. POINT TO GIPCO.

State : Gujarat

District &amp; Taluka : Vadodara

Village	Survey No.	Hect-are	Arc	Centi-are
1	2	3	4	5
Sevasi	Cart track	0	02	80
	785	0	20	50
	784	0	16	90
	782	0	09	10
	781	0	09	45
	774	0	05	20
	775	0	17	50
	808	0	03	95
	807	0	23	10
	806	0	04	30
	812	0	13	50
	813	0	06	40
	Cart track	0	01	00
	814	0	08	90
	838	0	07	90
	837	0	19	80
	835	0	12	50
	834	0	01	10
	873	0	06	70
	874	0	18	12
	876	0	28	80
	Cart track	0	02	20
	875	0	01	55

[No.O-11027/95/89-O.N.G.D.-III]

K. VIVEKANAND Desk Officer

नई दिल्ली: 11 जनवरी, 1990

का. प्रा. 1315 .—यतः पेट्रोलियम और खनिज वाहन भूमि में उपयोग के अधिकार का अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. प्रा. सं. 2518 तारीख 7-10-89 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार की पाहपलाइनों को बिछाने के लिए अर्जित करने का अपना प्राण्य घोषित कर दिया था।

और यतः सधम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाहपलाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय ने

और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख की निहित होगी।

## अनुसूची

जी. एन. बी. एफ. से जी. एन. ए. क्यू. तक पाईप लाईन बिछाने के लिए।

राज्य : गुजरात जिला भन्व सालुका-जंबुसर

गांव	ब्लॉक नं.	हे.	आर	सेन्टी
वासेडा	5	00.	24	96
	3	00	21	19
	1	00	01	95

[ सं. ओ.-11027/86/89-ओ एन जीडी-III ]

के. सी. कटोच, डेस्क अधिकारी

New Delhi, the 11th January, 1990

S.O. 1315.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. No. 2518, dated 7-10-1989 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose laying pipeline.

And further, in exercise of power conferred by sub-section (1) of the Section 6 of the said Act, submitted report to the Government ;

And Further, Whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification ;

Now therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

## SCHEDULE

## PIPELINE FROM GNEP TO GNAQ

State : Gujarat

District : Bharuch, Taluka : Jambusar

Village	Block No.	Hect-are	Arc	Centi-are
1	2	3	4	5
Var eta.	5	00	24	96
	3	00	21	19
	1	00	01	95

[No. O-11027/86-89-O.N.G.D. II]

K.C. KATOCH, Desk Officer

नई दिल्ली, 14 नवम्बर, 1990

का. प्रा. 1316 यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोक-हित में यह आवश्यक है कि गुजरात राज्य में कांडवा से पंजाब राज्य में अटिडा (बाया राजस्थान व हरियाणा राज्य) तक पेट्रोलियम के परिवहन के लिए पाईप लाईन इस्त्रिम प्राण्य कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और यह प्रतीत होता है कि ऐसा करने की डिग्री के कर्मियों के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पैट्रोनियम और खनिज पार्सि लाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बसंत कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पार्सि लाईन बिछाने के लिए आक्षेप सक्षम अधिकारी, इंडियन प्रायल कार्पोरेशन लिमिटेड पार्सि लाईन्स बंगला नं. 85 सेक्टर नं. 1, गांधी घाट की इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

तहसील - सिद्धपुर जिला - मेहसाणा राज्य - गुजरात

गांव का नाम	सर्वेक्षण नम्बर	क्षेत्रफल		
		हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5
खोलवाड़ा	गांव का नाला	0	00	71
	गांव का नाला	0	03	56
खोलवाड़ा	गांव का नाला	0	02	85
	293	0	33	44
बैयली	गांव का नाला	0	02	12
	गांव का नाला	0	02	12
	गांव का नाला	0	02	12
	गांव का नाला	0	02	12
बंदनसर	अमरवती नदी	0	76	68
	238	0	22	31
बंदनसर	गांव का नाला	0	02	09
	गांव का नाला	0	06	27
	गांव का नाला	0	01	39
	119	0	15	34
द्विशीर	अमरवती नदी	0	32	80
	132	0	04	37
	सरकारी बिन जुली बंजर भूमि	0	14	57
	गांव का नाला	0	02	19
	320	0	28	42

तहसील - पाटन जिला - मेहसाणा राज्य - गुजरात

गांव का नाम	सर्वेक्षण नम्बर	क्षेत्रफल		
		हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5
बामैया	194	0	04	37
	203	0	01	34
	209	0	11	42
	249	0	01	34

	469	0	09	40
गांव का रास्ता		0	02	02
636		0	08	73
गांव का रास्ता		0	02	69
गांव का रास्ता		0	00	67
884		0	02	01
गांव का रास्ता		0	02	02
गांव का रास्ता		0	02	02
गांव का रास्ता		0	02	02
गांव का रास्ता		0	02	02
गांव का रास्ता		0	02	01
गांव का रास्ता		0	02	07
कीटावड़	12	0	24	19
गुलवासणा	अजमाना का नाला	0	01	96
	अगर बाईया रोड	0	04	91
	52	0	04	91
	अगर बामैया रोड	0	09	82
	गांव का रास्ता	0	01	64
अगर	368	0	09	39
	गांव का नाला	0	02	75
	364	0	12	37
	304	0	19	92
	गांव का नाला	0	02	06
	संगोडीया का नाला	0	02	06
	गांव का नाला	0	02	06
	गांव का नाला	0	05	50

तहसील - पाटन जिला - मेहसाणा राज्य - गुजरात

गांव का नाम	सर्वेक्षण नम्बर	क्षेत्रफल		
		हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5
अधार	गुलवासणा का नाला	0	02	06
	पाटन बीसा रोड	0	03	44
	1485	0	17	18
समासपाटी	गांव का नाला	0	02	07
सुजनीपुर	17	0	26	42
	290	0	08	34
सुजनीपुर	367	0	88	31
	गांव का नाला	0	02	78
	पाटन-सिहोरी रोड	0	03	48
	192	0	01	04
मवा बाबा हाजि	गांव का नाला	0	01	75
	गांव का नाला	0	03	51
असा	गांव का नाला	0	01	04
	979	0	01	04
	981	0	9	73



1	2	3	4	5
अभिलेख	रेलवे लाईन भाग 1 पीर 2	0	14	7
ओडिया	गांव का नाम	0	02	09
अरेडा	गांव का नाम	0	02	10
	159	0	10	14
	गांव का नाम	0	01	05
	गांव का नाम	0	01	05
	128	0	02	10
	धर्मपुरा का नाम	0	02	10
खानपुरी	गांव का नाम	0	02	77
	गांव का नाम	0	02	08
	342	0	03	16

महमूल - जालिज, जिला - मेहसाणा राज्य - गुजरात

गांव का नाम	सर्वेक्षण नम्बर	क्षेत्रफल		
		हेक्टर	गजर	बर्ग-मीटर
1	2	3	4	5
खनाबड़ा	169	0	26	50
	153	0	07	67
	गांव का नाम	0	02	09
	67	0	66	59
	गांव का नाम	0	02	09
मामा	24	0	20	04
	34	0	17	97
	गांव का नाम	0	02	07
	गांव का नाम	0	03	46
रोड़ा	गांव का नाम	0	02	14
	गांव का नाम	0	04	28
	टोटाना रोड	0	03	57
	557	0	14	99

[सं. आर - 31015/5/90 - जो आर आई]

New Delhi, the 14th April, 1990

S.O. 1316.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from Kandla in the State of Gujarat to Bhatinda in the State of Punjab (Via Rajasthan & Haryana States), a pipeline should be laid by Indian Oil Corporation Limited.

And whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority. Indian Oil Corporation Limited, Bungalow No. 85, Sector No. 1, Gandhidham, Kachchh. 370 201.

And, every person making such an objection shall also state specifically whether he wishes to be heard in person or by Legal Practitioner.

1158 GI9/91—4.

## SCHEDULE

Tehsil : Sidhpur	District : Mehsana	State : Gujarat		
Name of Village	Survey No.	Area		
		H.	A.	Sq. Mtrs.
1	2	3	4	5
Kholvada	Village Naliya	0	00	71
	Village Naliya	0	03	56
	Village Naliya	0	02	85
	293	0	33	44
Dethali	Village Naliya	0	02	12
	Village Naliya	0	02	12
	Village Naliya	0	02	12
	Village Naliya	0	02	12
Chandansai	Amardashi River	0	76	68
	238	0	22	31
	Village Naliya	0	02	09
	Village Naliya	0	06	27
	Village Naliy	0	01	39
	119	0	15	34
Hisor	Amardashi River	0	32	80
	132	0	04	07
	Govt. Uncultivable Wasteland	0	14	57
	Village Naliya	0	02	19
	320	0	28	42

Taluka : Patan	District : Mehsana	State : Gujarat		
Name of Village	Survey No.	Area		
		H.	A.	Sq. Mtrs.
1	2	3	4	5
Vamaiya	194	0	04	37
	203	0	01	34
	209	0	11	42
	249	0	01	34
	469	0	09	40
	Village Road	0	02	02
	636	0	08	73
	Village Road	0	02	69
	Village Road	0	00	67
	884	0	02	01
	Village Road	0	02	02
	Village Road	0	02	02
	Village Road	0	02	02
	Village Road	0	02	02
	Village Road	0	02	01
Kotavad	Village Road	0	02	07
	12	0	24	19
Gulvasana	Ajamana Naliya	0	01	96
	Aghar-Vamaiya Road	0	04	91
	52	0	04	91
	Aghar-Vamsiya Road	0	09	82
	Village Road	0	01	64

Taluka : Patan	District : Mehsana	State : Gujarat		
Name of Village	Survey No.	Area		
		H.	A.	Sq. Mtrs.
1	2	3	4	5
Aghar	368	0	09	39
	Village Naliya	0	02	75

1	2	3	4	5
	364	0	12	37
	304	0	19	92
	Village Naliya	0	02	06
	Sagodiya Naliya	0	02	06
	Village Naliya	0	02	06
	Village Naliya	0	05	50
	Gulvasana Naliya	0	02	06
	Patan-Deesa Road	0	03	44
	1485	0	17	18
Smalpati	Village Naliya	0	02	07
Sujanipur	17	0	26	42
	290	0	08	34
	367	0	88	31
	Village Naliya	0	02	78
	Patan-Sihori Road	0	03	48
	192	0	01	04
Nava-Bava-Haji	Village Naliya	0	01	75
	Village Nalia	0	03	51
Kansa	Village Naliya	0	01	04
	979	0	01	04
Kansa	981	0	09	73
Khalipur	Part 1 & 2 Railway Line	0	14	73
Odhava	Village Naliya	0	02	09
Vareda	Village Road	0	02	10
	159	0	10	14
	Village Road	0	01	05
	Village Road	0	01	05
	128	0	02	10
Khanpurda	Dudharanpura Naliya	0	02	10
	Village Naliya	0	02	77
	Village Naliya	0	02	08
	342	0	03	46
Taluka : Harij District : Mehsana State : Gujarat.				
Name of Village	Survey No.	Area		
		H	A.	Sq. Mtrs.
1	2	3	4	5
Dunavada	169	0	26	50
	153	0	07	67
	Village Naliya	0	02	09
	67	0	66	59
	Village Naliya	0	02	09
Masa	24	0	20	04
	34	0	17	97
	Village Naliya	0	02	07
	Village Naliya	0	03	46
Roda	Village Naliya	0	02	14
	Village Naliya	0	04	28
	Totana Road	0	03	57
	557	0	14	99

क. आ. 1317यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में पाटणा से पत्राच राज्य में भद्रिः (बाया राजस्थान व कृष्णा राज) तक पैट्रोलिंग के परिवहन के लिए पाटण लाईन इंडियन आयल कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि पैट्रोल लाईन को बिछाने के प्रयोजन के लिए पाटणा-बाया घाट घाट में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

यतः अब पैट्रोलिंग और खनिज पाईप लाईन (भूमि में उपयोग के अधिकार का अर्थ) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है :

अर्थात् कि उक्त भूमि में खनिज कोई व्यक्ति, उस भूमि के नीचे पाईप लाइन बिछाने के लिए आशय सहित अधिकारी इंडियन आयल कारपोरेशन लिमिटेड पाईप लाईन, बंगला नं. 85 सेक्टर नं. 1 गांधीधाम को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा;

और ऐसा प्रत्येक करने वाला हर व्यक्ति बिनिश्चितः यह भी बतम करेगा कि क्या यह चाहता है कि उसकी मुतवाई व्यक्तिगत हो या किसी विशिष्ट व्यवसायी की मार्फत।

#### अनुसूची

तहसील - कांकरज मिला - बसायकाठा राजा - गुजरात

गांव का नाम	सर्वेक्षण नम्बर	क्षेत्रफल		
		हेक्टर	एयर	बर्ग-मीटर
1	2	3	4	5
मोहमपुरा	32-ए	0	21	95
	रीडा-मुदीमन रोड	0	03	54
	बिन जुती सरकारी बंजर भूमि	0	08	50
मुदीमन	38	0	65	73
	137	0	11	33
	बिन जुती सरकारी बंजर भूमि	0	19	64
	बिन जुती सरकारी बंजर भूमि	0	08	31
	गांव का रास्ता	0	03	02
	गांव का रास्ता	0	03	02
	गांव का रास्ता	0	03	02
भद्रेवादी	बनार नदी	0	75	43
	165 बी की	1	52	40
बाकपुरा	गांव का रास्ता	0	02	79
	बिन जुती सरकारी बंजर भूमि	0	00	70
	गांव का रास्ता	0	02	79
	गांव का रास्ता	0	02	79
	गांव का रास्ता	0	02	79
मानपुरा	कमालपुर रोड	0	03	10
	दादर रोड	0	03	10

तहसील - राधनपुर		जिला - बनासकांठा	राज्य - गुजरात		1	2	3	4	5
गांव का नाम	सर्वेक्षण नम्बर	क्षेत्रफल							
		हेक्टर	एकड़	वर्ग-मीटर					
1	2	3	4	5					
धरावडी	गांव का रास्ता	0	03	52					
	259	0	59	17					
	262	0	16	20					
	283	0	21	13					
	बिन जुती सरकारी बंजर भूमि	0	06	34					
मानोपुरा	धरावडी-राधनपुर रोड	0	10	87					
	धरावडी - राधनपुर रोड	0	06	17					
	गांव का रास्ता	0	04	35					
	बिन जुती सरकारी बंजर भूमि	0	14	50					
	गांव का रास्ता	0	02	17					
	310	0	05	08					
मिमाड	260	0	00	34					
	263	0	15	02					
	301	0	17	75					
	302	0	15	02					
	303	0	30	03					
	बिन जुती सरकारी बंजर भूमि	0	09	55					
	गांव का रास्ता	0	02	05					
	312	0	17	06					
	बिन जुती सरकारी बंजर भूमि	0	15	02					
	राधनपुर रोड	0	10	24					
	गांव का रास्ता	0	02	73					
	261	0	34	47					
सरदारपुरा	46	0	32	48					
	63	0	16	24					
	गांव का रास्ता	0	04	43					
	45/1	0	03	69					
राधनपुर	410	0	52	74					
	402	0	01	51					
	धमीरपुरा रोड	0	04	52					
	329/2-बी	0	34	66					
	राधनपुर - मेहभाणा रोड	0	06	04					
	314/6	0	09	80					
	314/4	0	17	33					
	301/11	0	09	04					
	301/9	0	18	08					
					सावपुरा	241/12	0	46	26
					गांव का रास्ता	0	02	94	
					गांव का रास्ता	0	04	41	
					182	0	14	09	
					गांव का रास्ता	0	04	40	
					गांव का रास्ता	0	04	40	
					169/1	0	00	73	
					गांव का रास्ता	0	02	94	
					41	0	22	03	
					सरदारपुरा	298	0	23	52
					301	0	23	52	
					294	0	29	05	
					गांव का रास्ता	0	02	07	
					266	0	02	07	
					गांव का रास्ता	0	33	20	
					258	0	30	44	
					गांव का रास्ता	0	13	84	
					245	0	20	75	
					गांव का रास्ता	0	12	45	
					342	0	51	19	
					15	0	12	45	
					गांव का रास्ता	0	02	77	
					32	0	16	60	
					गांव का रास्ता	0	06	92	
					गांव का रास्ता	0	02	77	
					नानीपीपली	30	0	48	63
					7	0	39	51	
					गांव का रास्ता	0	03	04	
					गोठारका रोड	0	10	64	
					149/1	0	36	47	
तहसील सांवलपुर		जिला बनासकांठा	राज्य गुजरात						
गांव का नाम	सर्वेक्षण नंबर	क्षेत्रफल							
		हेक्टर	एकर	वर्ग-मीटर					
1	2	3	4	5					
सावपुरा	258	0	01	42					
नयाशाम	गांव का रास्ता	0	08	74					
	गांव का रास्ता	0	02	15					
	गांव का रास्ता	0	02	15					

1	2	3	4	5	1	2	3	4	5
बराही	बराही हीरापुरा रोड	0	02	86	भरकारी भूमि	1	12	50	
	414	0	90	27	सरकारी भूमि	0	77	40	
	400	0	17	19	सरकारी भूमि	0	05	40	
	गांव का नाला	0	08	60	सरकारी भूमि	0	03	60	
	गांव का नाला	0	02	86	781	0	14	40	
	207	0	12	89	सरकारी भूमि	0	22	50	
	223/2	0	01	43	784	0	04	50	
	गोठारका रोड	0	02	87	सरकारी भूमि	0	20	70	
	गांव का नाला	0	02	87	145	0	84	60	
	सरकारी भूमि	0	32	10	सरकारी भूमि	0	09	36	
	सरकारी भूमि	0	09	00	गराबड़ी	सरकारी भूमि	0	44	46
	सरकारी भूमि	0	16	20	439		44	46	
कमालपुरा	सरकारी भूमि	0	07	20	सरकारी भूमि	0	06	48	
मानपुरा	सरकारी भूमि	0	04	50	सरकारी भूमि	0	11	70	
नलीया	101	0	52	20	355	0	00	90	
	102	0	18	00					
	114	0	50	40					
	103	0	41	40	तहसील सांवलपुर जिला बनारसकांठा	गुजरात राज्य			
	सरकारी भूमि	0	04	50					
	105	0	10	80	गांव का नाम	सर्वेक्षण नंबर	क्षेत्रफल		
बाघपुरा	63	1	17	00			हेक्टर एयर वर्ग-मीटर		
	सरकारी भूमि	0	01	80					
	सरकारी भूमि	0	05	40					
तहसील सांवलपुर जिला बनारसकांठा	राज्य गुजरात								
गांव का नाम	सर्वेक्षण नंबर	क्षेत्रफल							
		हेक्टर एयर वर्ग-मीटर							
1	2	3	4	5					
बाघपुरा	3	0	25	20	गराबड़ी	355	0	19	38
	सरकारी भूमि	0	01	80	359	0	79	78	
	26	0	68	40	सरकारी भूमि	0	24	66	
बाईगामड़ा	169	0	13	50	354	0	18	72	
	सरकारी भूमि	0	00	90	सरकारी भूमि	0	36	36	
छातसरा	सरकारी भूमि	1	41	48	344	0	16	38	
	सरकारी भूमि	0	02	96	रोज	212	1	23	12
	सरकारी भूमि	0	02	88	193	2	24	28	
	सरकारी भूमि	0	05	94	191	1	94	22	
	सरकारी भूमि	0	29	34	पिपरासा	42	2	93	76
	सरकारी भूमि	0	04	36	42	0	19	63	
पुरा	सरकारी भूमि	0	01	80	858	0	05	94	
	813/2	0	07	56	859	0	11	70	
	सरकारी भूमि	0	01	80	42	0	05	94	
	सरकारी भूमि	0	63	18	42	0	13	68	
	सरकारी भूमि	0	02	88	886	0	33	30	
	सरकारी भूमि	0	28	80	42	0	08	82	
सांवलपुर	सरकारी भूमि	0	49	50	42	0	35	28	
	सरकारी भूमि	0	18	90	42	0	09	72	
					42	3	24	00	

[सं. आर 31015/5/90 को आर-आई]

कुलवीप सिंह, प्रवर सचिव

S.O. 1317.—Whereas by notification of the Government that it is necessary in the public interest that for the transport of Petroleum from Kandla in the State of Gujarat to Bhatinda in the State of Punjab (Via Rajasthan & Haryana States), a pipeline should be laid by Indian Oil Corporation Limited.

And whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub-section (i) of Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Indian Oil Corporation Limited, Bungalow No. 85, Sector No. 1, Gandhidham, Kachchh, 370 201.

And, every person making such an objection shall also state specifically whether he wishes to be heard in person or by Legal Practitioner.

#### SCHEDULE

Taluka : Kankaraj District : Banaskantha State : Gujarat.

Name of Village	Survey No.	Area		
		H.	A.	Sq. Mtrs.
1	2	3	4	5
Sohanpura	32-A	0	21	95
	Roda-Sudrosan Road	0	03	54
	Pot-Kharat Govt. Land.	0	08	50
Sudrosan	38	0	65	73
	137	0	11	33
	Pot-Kharat Govt. Land.	0	19	64
	Pot-Kharat Govt. Land.	0	08	31
	Village Road	0	03	02
	Village Road	0	03	02
	Village Road	0	03	02
Bhadrevadi	Banas River	0	75	43
	165 Paiki	1	52	40
Valpura	Village Naliya	0	02	79
	Uncultivable Govt. waste land.	0	00	70
	Village Road	0	02	79
	Village Road	0	02	79
	Village Naliya	0	02	79
Manpura	Kamalpur Road	0	03	10
	Dadar Road	0	03	10

Taluka : Radhanpur District : Banaskantha : State Gujarat.

Name of Village	Survey No.	Area		
		H.	A.	Sq. Mtrs.
1	2	3	4	5
Dharavadi	Village Road	0	03	52
	159	0	59	17
	262	0	16	20
	283	0	21	13
	Uncultivable wste Govt. land.	0	06	34
Nanapura	Dharavadi-Radhanpur R.L.	0	10	87
	Dharavadi-Radhanpur Road	0	06	17
	Village Road	0	04	35
	Uncultivable Govt. waste land	0	14	50
	Village Road	0	02	17
Shinad	310	0	05	08
	260	0	00	34
	263	0	15	02
	301	0	17	75
	302	0	15	02
	303	0	30	03
	Uncultivable Govt. waste land	0	09	55
	Village Road	0	02	05
	312	0	17	06
	Uncultivable Govt. waste land	0	15	02
Sardarpura	Radhanpur Road	0	10	24
	Village Road	0	02	73
	261	0	34	47
	46	0	32	48
	63	0	16	24
	Village Road	0	04	43
	45/1	0	03	69
Radhanpur	410	0	52	74
	402	0	01	51
	Amirpura Road	0	04	52
	329/2-B	0	34	66
	Radhanpur-Mehsana Road	0	06	04
	314/6	0	09	80
	314/4	0	17	33
	301/11	0	09	04
	301/9	0	18	08
	Shabdulpura Road	0	06	03
Satun	284	0	06	03
	Shorgadle Road	0	07	53
	272	0	15	07
	Village Road	0	03	01
	241/12	0	46	26
	Village Road	0	02	94
	Village Road	0	04	41
Radhanpur	182	0	14	69
	Village Road	0	04	40
	Village Road	0	04	40
	169/1	0	00	73
	Village Road	0	02	94
	41	0	22	03

1	2	3	4	5	1	2	3	4	5
Serkarpura	298	0	23	52	Daigamda	169	0	13	50
	301	0	23	52		Govt. Land	0	00	90
	294	0	29	05	Chhansara	Govt. Land	1	41	48
	Village Road	0	02	07		Govt. Land	0	02	96
	266	0	02	07		Govt. Land	0	02	88
	Village Road	0	33	20		Govt. Land	0	05	94
	258	0	30	44		Govt. Land	0	29	34
	Village Naliya	0	13	84		Govt. Land	0	04	86
	245	0	20	75	Pur	Govt. Land	0	01	80
	Village Road	0	12	45		813/2	0	07	56
	342	0	51	19		Govt. Land	0	01	80
	15	0	12	45		Govt. Land	0	63	18
	Village Road	0	02	77		Govt. Land	0	02	88
	32	0	16	60		Govt. Land	0	28	80
	Village Road	0	06	92	Santalpur	Govt. Land	0	49	50
	Village Road	0	02	77		Govt. Land	0	18	90
Nanipipali	30	0	48	63		Govt. Land	1	12	50
	7	0	39	51		Govt. Land	0	77	40
	Village Road	0	03	04		Govt. Land	0	05	40
	Gotarka Road	0	10	64		Govt. Land	0	03	60
	149/1	0	36	47		781	0	14	40

## SCHEDULE

Tehsil : Santalpur District Banaskantha State : Gujarat

Name of Village	Survey No.	Area		
		H.	A.	Sq. Mtrs.
1	2	3	4	5
Sadpura	258	0	01	42
Navagam	Village Naliya	0	05	74
	Village Naliya	0	02	15
	Village Naliya	0	02	15
Varahi	Varahi-Hirapura Road	0	02	86
	414	0	90	27
	400	0	17	19
	Village Naliya	0	08	60
	Village Naliya	0	02	86
	207	0	12	89
	223/2	0	01	43
	Gotaka Road	0	02	87
	Village Naliya	0	02	87
	Govt. Land	0	32	40
	Govt. Land	0	09	00
	Govt. Land	0	16	20
Kamalपुरा	Govt. Land	0	07	20
Manपुरा	Govt. Land	0	04	50
Naliya	101	0	52	20
	102	0	18	00
	114	0	50	40
	103	0	41	40
	Govt. Land	0	04	50
	105	0	10	80
Vaghपुरा	63	1	17	00
	Govt. Land	0	01	80
	Govt. Land	0	05	40
	3	0	25	20
	Govt. Land	0	01	80
	26	0	68	40

Garambdi	Govt. Land	0	44	46
	439	0	44	46
	Govt. Land	0	06	48
	Govt. Land	0	11	70
	355	0	00	90
	355	0	19	38
	359	0	39	78
	Govt. Land	0	24	66
	354	0	18	72
	Govt. Land	0	36	36
	344	0	16	38
Roju	212	1	23	12
	193	2	24	28
	191	1	94	22
Piprala	42	2	93	76
	42	0	19	62
	858	0	05	94
	859	0	11	70
	42	0	05	94
	52	0	13	68
	886	0	33	30
	42	0	08	82
	42	0	35	28
	42	0	09	72
	42	3	24	00

[No. R-31015/5/90-OR-I]

KULDIP SINGH, Under Secy.

अथ संचालय

नई दिल्ली, 16 मई, 1991

का. मा. 1318--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्डुस्तान जिंक लिमिटेड के प्रबन्धन के संवत्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अश्रिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-4-91 को प्राप्त हुआ था।

## MINISTRY OF LABOUR

New Delhi, the 16th April, 1990

S.O. 1318.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Hindustan Zinc Limited and their workmen, which was received by the Central Government on 15-4-1991.

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

पीठासीन अधिकारी : श्री गोपाल लाल गुप्ता, आर. एच. जे. एम.  
केम न सी, आई. टी. 1/87

केन्द्र सरकार श्रम मंत्रालय की अधिसूचना सं. एल-29012/20/81-  
सी. III (बी) दिनांक : 1 अक्टूबर, 1986

भगवान सिंह मार्केट राजेन्द्र सिंह चौधरी, हिन्दू मजदूर सभा 86, पंचावटी,  
उदयपुर (राजस्थान) ।

बनारस

उप धान अधीक्षक, हिन्दुस्तान जिंक लिमिटेड, आचार्य भवन, उदयपुर ।

उपस्थिति :

श्रमिक पक्ष की ओर से : श्री जे. एच. गार्ह

नियोजक पक्ष की ओर से : श्री समीर शर्मा

दिनांक अर्वाह : 22-11-90

प्रवाद

केन्द्र सरकार श्रम मंत्रालय के डेस्क अधिकारी ने अपनी अधिसूचना सं. एल.-29012/20/81-3(बी) दिनांक 1-10-86 के द्वारा निम्न-लिखित विवाद हटा न्यायाधिकरण को अधिनियम 1947 की धारा-(1) 10(1) (ब) के अंतर्गत प्रेषित किया है—

“क्या मैसर्स हिन्दुस्तान जिंक लिमिटेड के प्रबंधन की अपनी आचार्य माइन्स उदयपुर के श्री भगवान सिंह, टी. नं.-29523 की सेवाओं को अपने दिनांक 3/5-1-79 के पक्ष द्वारा समाप्त करने की कार्यवाही न्यायोचित है ? यदि नहीं, तो कर्मकार किस अनुतोष का हकदार है ?”

2. अपने दिनांक 10-2-87 के क्लेम विवरण में भगवान सिंह ने यह प्रकट किया था कि विपक्षी प्रतिष्ठान में दिनांक 17-5-77 से उसकी बलारिया माइन्स में मजदूर के पद पर नियुक्ति हुई थी तब से वह निरन्तर कार्य कर रहा था एवं उसे दिनांक 28-11-78 को स्थाई कर दिया गया था । यह कहा गया है कि प्रार्थी को नहक का रोग हो गया था जिसकी उसने विपक्षी प्रतिष्ठान के मुख्यालय में दिनांक 30-9-77 एवं 1-11-77 को चिकित्सा कराई थी । तथा यह चिकित्सा दिनांक 24-11-77 तक चलती रही थी किन्तु पूर्ण लाभ नहीं होने के कारण वह दिनांक 17-12-78 को अपनी ससुराल लासनी में हजाज कराने चला गया था क्योंकि दिनांक 18-12-78 को उसके विश्राम का दिन था क्लेम विवरण में यह कहा गया है कि उसने दिनांक 18-12-78 को लासनी में बंध को दिखाया था जहां उसकी 7-1-79 तक चिकित्सा हुई थी जिस सम्बन्ध में प्रार्थी ने दिनांक 18-12-78 को विपक्षी प्रतिष्ठान में अवकाश का प्रार्थना पत्र भेज दिया था । क्लेम विवरण में यह भी कहा गया है कि दिनांक 10-1-79 को जब प्रार्थी बंध का मेडीकल प्रमाण पत्र लेकर विपक्षी प्रतिष्ठान में गया तो उसकी उपस्थिति का रिपोर्ट स्वीकार नहीं की गई थी जिसे उसने डाक में भेज दिया बताया था उसी दिन उसे दिनांक 5-1-79 को सेवा मुक्ति का आदेश दिया गया था । क्लेम विवरण में यह कहा गया है कि इस सम्बन्ध में प्रार्थी ने विवाद उठाया था जो पहले प्रहमदावाद चला था तथा फिर कोर्ट में चला था किन्तु कोई कार्यवाही नहीं होने के कारण वह विवाद प्रेषित किया

गया है । यह कहा गया है कि विपक्षी प्रतिष्ठान ने प्रार्थी को छंटनी का पत्रावकाश नहीं दिया था एवं औद्योगिक विवाद अधिनियम, 1947 की धारा 25(ब) के आज्ञापक प्रावधानों की पाबनी नहीं की है, अतः उसकी सेवा मुक्ति का आदेश अवैध एवं अनुचित है ।

3. विपक्षी प्रतिष्ठान ने उत्तर दिनांक 11-2-89 में उक्त क्लेम विवरण का विरोध किया है एवं यह आपत्ति उठाई है कि आक्षेपित आदेश औद्योगिक (नियोजक स्थाई आदेश) में वर्णित सेवा शर्तों के अनुसार दिया गया है । अतः यह विवाद चलने योग्य नहीं है । यह कहा गया है कि प्रतिष्ठान ने ग्रहणियात के तौर पर दिनांक 31-7-84 को भगवान सिंह को शारीर पत्र देकर घरेलू जांच की थी एवं उसके विरुद्ध दुराचरण प्रमाणित हो गया था अतः पुनः उम्मा सेवा मुक्ति का आदेश दे दिया गया था । यह कहा गया है कि श्रमिक समय-समय पर सेवा से अनुपस्थित रहा था एवं उसको सेवा से हटाना-छंटनी की परिभाषा में नहीं आता है । यह भी कहा गया है कि भाषान सिंह निरन्तर 8 दिन से अधिक अवधि तक अनुपस्थित रहा था अतः नियोजक एवं नियोक्ता के सम्बन्ध समाप्त हो चुके थे । यह भी कहा गया है कि प्रार्थी श्रमिक की परिभाषा में नहीं आता है तथा वह स्वयं ही सेवा को त्यागने वाला है । यह अनुरोध किया गया है कि इस विवाद का उत्तर प्रबंधकों के पक्ष में दिया जाए ।

4. प्रतिउत्तर दिनांक 1-6-88 में भगवान सिंह ने यह कहा है कि उसे सेवा में पुनः स्थापित होने का अधिकार है । इस न्यायाधिकरण के आदेश दिनांक 23-9-89 में यह स्पष्ट कर दिया गया था कि विपक्षी प्रतिष्ठान द्वारा सन् 1984 में की गई घरेलू जांच इस विवाद में सुसंगत नहीं है तथा उसे ध्यान में रखकर कोई आदेश नहीं दिया जा सकता है । दिनांक 24-9-88 के आदेश से निम्नलिखित विवादक बनाए गए थे :

विवादक :

- (1) प्राया प्रार्थी भगवान सिंह औद्योगिक विवाद अधिनियम, 1947 के प्रावधानों ने एक औद्योगिक कर्मकार की परिभाषा में नहीं आता है और क्या उसे यह विवाद उठाने का अधिकार नहीं है ।
- (2) प्राया प्रार्थी भगवान सिंह की सेवा समाप्ति दिनांक 3/5-1-79 छंटनी की परिभाषा में आती है ?
- (3) प्रार्थी भगवान सिंह क्या अनुतोष प्राप्त करने का अधिकारी है ?

5. विपक्षी प्रबंधक ने इस न्यायाधिकरण के समक्ष साक्ष्य प्रस्तुत की है । विजय कुमार भण्डारी का शपथपत्र प्रस्तुत किया गया है एवं कर्मकार सेवा से सम्बन्धित लेख पत्र प्रस्तुत किए गए हैं । उधर प्रार्थी भगवान सिंह ने अपने शपथ पत्र प्रस्तुत किया है तथा उसके द्वारा अवकाश के लिए भेजे गए प्रार्थना पत्र एवं डाक में डालने के सबूत को प्रमाणित कराया गया है । प्रार्थी ने चिकित्सा कराने के तथ्य को सिद्ध करने के लिए हजाज की पत्रियां प्रस्तुत की हैं ।

6. हमने पक्षकारों के विद्वान प्रतिनिधियों को सुन लिया है एवं साक्ष्य का अध्ययन कर लिया है । प्रत्येक विवादक पर हमारी उपपत्ती इस प्रकार है —

विवादक सं. 1 :

7. बहस के समय विपक्षी प्रतिष्ठान के विद्वान प्रतिनिधि ने इस में उठाई गई आपत्ति पर आपह नहीं किया है । यह विवाद विषय नहीं है कि प्रार्थी विपक्षी प्रतिष्ठान में मजदूर के पद पर कार्यरत था एवं उसने एक वर्ष में 240 दिन से अधिक की सेवा अवधि पूरी कर ली थी । अतः यह कहने में कोई संकोच नहीं होता है कि अधिनियम के प्रावधानों के अंतर्गत श्रमिक एक कर्मकार था । यह उल्लेखनीय है कि विजय कुमार भण्डारी ने अपने शपथपत्र में इस तर्क के विरुद्ध कुछ नहीं कहा है । अतः इस विवादक को विपक्षी प्रतिष्ठान के विरुद्ध निर्णित किया जाता है ।

विवाधक सं. 2 :

8. प्रबंधक की ओर से यह सम्बोधन किया गया है कि भगवान सिंह की सेवा मुक्ति स्थाई आदेश के खण्ड-12 (घ) (i) उपदिष्ट दिवशी के अंतर्गत की गई थी अतः यह छठवीं की परिभाषा में नहीं आता है। उन्होंने यह वलीव दी है कि इस तरह की सेवा मुक्ति कोई अनुशासनिक कार्यवाही के अंतर्गत नहीं हुई थी जिसके लिए जांच लिए जाने की भी आवश्यकता नहीं थी। उन्होंने यह वलीव दी है कि विपक्षी प्रतिष्ठान में कदाचरण वह है जो कि स्थाई आदेश के खण्ड 14 के अंतर्गत दिया गया है एवं उस कदाचरण की स्थिति में ही घरेलू जांच की आवश्यकता थी। विपक्ष में उन्होंने यह वलीव दी है कि प्रस्तुत साक्ष्य से श्रमिक के विरुद्ध कदाचरण का आरोप भी प्रमाणित हो गया है अतः श्रमिक को सेवा समाप्ति के आदेश का उचित होना माना जाए।

9. दूसरी ओर श्रमिक के विद्वान प्रतिनिधि ने यह सम्बोधित किया है कि श्रमिक को सेवा से हटाने की कार्यवाही छठवीं के अतिरिक्त कुछ भी नहीं थी एवं छठवीं के लिए अधिनियम की धारा 25(च) के प्रावधानों की पालना नहीं की गई थी, अतः यह छठवीं अवैध है। यह भी वलीव दी गई है कि इस न्यायाधिकरण के समक्ष प्रस्तुत हुई साक्ष्य में कर्मकार के विरुद्ध कदाचरण का आरोप प्रमाणित नहीं होता है।

10. हमने इन वलीवों पर भावनात्मक में विचार किया है। यह विश्वास का विषय नहीं है कि विपक्षी प्रतिष्ठान ने श्रमिक को कोई घरेलू जांच करने के पञ्चान् सेवा से पृथक नहीं किया था अतः उसको सेवा से निकालने के आदेश को छठवीं से भिन्न और कुछ नहीं समझा जा सकता है। माननीय उच्चतम न्यायालय ने—

एन. रोबर्ट हिंसुजा

बनाम

अग्रिवासी अभियंता, दक्षिणी रेलवे

1982(1) एन. एल. जे. 330

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के मामले में यह स्पष्ट सिद्धांत प्रतिपादित किया है कि किसी भी प्रकार की सेवा समाप्ति यदि वह अधिनियम की धारा 2 (घो घो) के उपबन्धों में नहीं आती है तो छठवीं ही समझी जाएगी। स्वयं विपक्षी प्रतिष्ठान का यह पक्ष कथन रहा है कि श्रमिक का अनुपस्थित रहने का कृत्य कदाचरण की परिभाषा में नहीं आया था ऐसी स्थिति में उसकी सेवा मुक्ति छठवीं से भिन्न और कुछ नहीं समझी जा सकती है। स्थाई आदेश के खण्ड-12 में यह टिप्पणी प्रकृत है कि इस खण्ड में वर्णित कारणों से हुई सेवा समाप्ति साधारण डिस्चार्ज मानी जाएगी। मेरे विचार में ऐसा लिखा होने पर भी सेवा समाप्ति छठवीं ही मानी जाएगी क्योंकि इस सम्बन्ध में अधिनियम की धारा 2 (घो घो) बहुत ही स्पष्ट है जिसकी व्याख्या उपरोक्त त्रिविध्य में की गई है। वास्तव में तो विपक्षी प्रतिष्ठान का यह एक सामूहिक है कि वह अपने श्रमिकों को सेवा से हटाने जैसी कार्यवाही करता है किन्तु फिर भी उसे वाणिज्य रूप नहीं देना चाहता है। माननीय कर्नाटक उच्च न्यायालय ने—

मोटर इंजरीज

बनाम

वी.एन. केशव

1983 लेबर आई.सी. नो. 113 (2)

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में यह सिद्धांत प्रतिपादित किया है कि न्यायालय आदेश की पूर्णतः जाकर यह देख सकता है कि वास्तव में यह साधारण डिस्चार्ज का मामला है अथवा एक वाणिज्य रूप में है। विपक्षी प्रतिष्ठान ने न्यायालय के समक्ष यह साक्ष्य प्रस्तुत की है कि यह श्रमिक पूर्व में भी अनुपस्थित रहने का आदी था। स्थायी आदेशों के खण्ड 14 के उपखण्ड 24 में सम्बन्धित अनुपस्थिति को कदाचरण माना गया है। ऐसी स्थिति में प्रतिष्ठान द्वारा पारित किये गये आदेश को वाणिज्य प्रकार का होना ही माना जाएगा एवं प्रतिष्ठान की इस वसीय को

स्वीकार नहीं किया जा सकता है कि यह एक साधारण डिस्चार्ज का मामला है। विपक्षी की ओर से प्रस्तुत त्रिविध्य—

मनमिपल सांगोरेण, इम्बर्द

बनाम

पी.एम. माननेकर

1978 (बो. 111) एम.सी.सी. -78

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में भी यह टिप्पणी की गई है कि यदि सेवा पर्यवसान के आदेश का आधार कदाचरण रहा है तो स्थायी आदेश के किमी हमने खण्ड में सेवा पर्यवसान कर देने पर भी उसे वाणिज्य कारण से सेवा पर्यवसान माना जा सकता है। अतः अपेक्षित आदेश को छठवीं से भिन्न और कुछ नहीं कहा जा सकता है। इस विवाधक को कर्मकार के पक्ष में निर्णित किया जाता है।

विवाधक सं. 3 :

11. विपक्षी प्रतिष्ठान ने कर्मकार के विरुद्ध लगाये गये कदाचरण के आरोप को प्रमाणित करने के लिए विजय कुमार शंभारी का शपथ पत्र प्रस्तुत किया गया है जिसमें यह कहा गया है कि भगवान सिंह जिना पूर्व सूचना एवं अनुमति के अनुपस्थित रहने का आदी था एवं वह बिना पूर्व सूचना तथा अनुमति के 18-12-78 के 5-1-79 तक अनुपस्थित रहा था। इस कथन के आधार पर यह वलीव दी गई है कि भगवान सिंह के विरुद्ध कदाचरण का आरोप प्रमाणित हो गया है। उधर कर्मकार भगवान सिंह ने अपने शपथ पत्र में यह कहा है कि वह दिनांक 30-9-77 से ही नाहर के रोग से पीड़ित था तथा उसने हिन्युस्तान जिक के चिकित्सालय में 24-11-77 तक चिकित्सा कराई थी किन्तु रोग नहीं मिटा था अतः विद्यमान होकर उसने 1977 एवं 78 में मेडीकल अवकाश लिया था एवं वह दिनांक 17-12-78 को अपनी समुदाय हलाज करवाने चला गया था तथा यहाँ से उसने 18-12-78 को अवकाश का प्रार्थना पत्र प्रेषित कर दिया था।

12. यह स्वीकृत तथ्य है कि कर्मकार को दिनांक 28-11-78 के आदेश से स्थाई कर दिया गया था। श्री बण्जारी के शपथ पत्र में यह नहीं कहा गया है कि भगवान सिंह का कार्य संतोषजनक नहीं था। दिनांक 28-11-78 को स्थाई कर देने से यह तो निश्चित हो जाता है कि इससे पूर्व यदि कर्मकार ने कोई चूक की थी तो वह प्रभावहीन हो चुकी थी। इसके अतिरिक्त प्रस्तुत लेख पत्रों में ही यह निश्चित हो जाता है कि इस कर्मकार को नाहर का रोग था एवं उसने समय-समय पर मेडीकल अवकाश लिया था। प्रस्तुत अभिलेख में यह स्पष्ट है कि एक वर्ष की सेवा अवधि में भी यह कर्मकार 29 दिन बीमार रहा था एवं बीमारी के कारण ही उसने अवकाश लिया था। इसका ही नहीं दिनांक 17-5-78 से 31-10-78 तक भी यह कर्मकार बीमार रहा था तथा उसने नाहर रोग के कारण ही 55 दिन मेडीकल अवकाश लिया था। ऐसी स्थिति में यह नहीं कहा जा सकता है कि यह कर्मकार जानबूझकर अनुपस्थित रहने का आदी था। बीमारी के कारण हुई अनुपस्थिति को स्वीकृत अनुपस्थिति नहीं कहा जा सकता है।

13. भगवान सिंह कर्मकार द्वारा अवकाश का प्रार्थना पत्र भेजा गया था जो डक्यू-1 है एवं जाक में डालने का प्रमाणपत्र प्रवेश डक्यू-13 है। इन लेख पत्रों का इस आधार पर मिश्रण होना नहीं पाया जा सकता है कि पत्र प्रवेश एम-4 में यह लिखा है कि कर्मकार ने अवकाश की सूचना नहीं भेजी थी। भगवान सिंह ने यह स्पष्टीकरण दिया है कि इस पत्र में कितने तथ्य उसने नहीं लिखाये थे बल्कि सम्बन्ध मनेजर ने लिखकर यह कहकर हस्ताक्षर करा लिये थे कि वह उसे 4 बजे ट्यूटी पर ले जाएगा। भगवान सिंह के इस स्पष्टीकरण को मात्र इस आधार पर गलत नहीं माना जा सकता है कि उसने इस पत्र के सम्बन्ध में पहले कभी ऐसा स्पष्टीकरण नहीं दिया था। पदावधि पर यह मानने का कोई आधार नहीं है कि भगवान सिंह के इस पत्र के सम्बन्ध में कभी कुछ पूछा गया था। यह पत्र सर्वप्रथम भगवान



सिंह को प्रतिपरीक्षा में ही प्रस्तुत हुआ था और उसी समय उसने यह स्पष्टीकरण दे दिया था। कुछ भी हो इस पक्ष प्रवर्ष एम-4 से भी यह तथ्य तो निश्चित रूप से प्रमाणित होता है कि श्रमिक बीमारी के कारण उपस्थित नहीं हुआ था। श्रमिक ने बीमारी के सम्बन्ध में प्रमाण पत्र भी प्रस्तुत किया था। ऐसी स्थिति में यह नहीं कहा जा सकता है कि दिनांक 18-12-78 से दिनांक 7-1-79 तक कर्मकार जानबूझकर इधरी से अनुपस्थित रहा था। प्रबन्ध द्वारा प्रस्तुत लेख पत्रों से ही यह निश्चित हो जाता है कि भगवान सिंह को माहुर का रोग था। ऐसी स्थिति में यह नहीं पाया जा सकता है कि भगवान सिंह जानबूझकर अनुपस्थित रहा था। अतः हमारे विचार में भगवान सिंह के विरुद्ध कदाचरण का आरोप प्रमाणित नहीं होता है। भगवान सिंह की अनुपस्थिति पर्याप्त कारणवश थी, जिसकी उसके अनुसार उसने डाक से सूचना भी भज दी थी। ऐसी स्थिति में कर्मकार सेवा में पुनः स्थापित होने का अधिकारी है।

14. अतः विवाद में यह अधिनियम पारित किया जाता है कि सै. हिन्दुस्तान जिक लिमिटेड के प्रबन्धतंत्र को अपनी ज्वार माईन्स उदयपुर के श्री भगवान सिंह टी. न. 19523 की सेवाओं को अपने दिनांक 3/5-1-79 के द्वारा समाप्त करने की कार्यवाही न्यायोचित नहीं है एवं कर्मकार भगवान सिंह सेवा में पुनः स्थापित होने का अधिकारी है। उसको सेवा की निरन्तरता मानी जाएगी एवं वृद्ध वेतन व सभी लाभों का अधिकारी होगा। उक्त आणख का अधिनियम पारित किया जाता है, जिसे वास्ते प्रकाशन केन्द्रीय सरकार को अंतर्गत धारा 17(1) अधिनियम भेजा जावे।

गोपाल लाल गुप्ता, न्यायधीश

[सं. एन-29012/20/81-डी III (बी)]

का.आ. 1319:-- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयर इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुसन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-4-91 को प्राप्त हुआ गया।

S.O. 1319.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Air India and their workmen, which was received by the Central Government on 15-4-91.

#### ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 99/87

In the matter of dispute between :

S/Shri Kanwar Lal and 69 others and S/Shri Ram Kishan and 101 others through Air India Workers' Union, Rohtas Chand Niwas, New Tata Nagar, Mahinpalpur Dairy, New Delhi-37.

Versus

The Chairman, Air India,

Air India Building, Nariman Point, Bombay.

2. The Chairman, International Airport Authority of India, N.D.M.C. Building, Yashwant Place, Chanakya Puri, New Delhi.

#### APPEARANCES :

Shri Nareth Kaushik—for the workmen

Shri Lalit Bhasin—for the Management.

1158GI/91—5

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11025/2/87-D.II(B) dated 23-9-1987 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the following demands raised by Air India Workers' Union in respect of S/Shri Kanwar Lal and 69 others as shown in Annexure-I and also by S/Shri Ram Kishan and 101 others, as shown in Annexure-II, on the management of Air India, are justified? If yes, to what relief the concerned workmen are entitled to and from what date?"

#### DEMANDS :

- (1) To regularise them for the date of their recruitment;
- (2) To pay them same wages as paid to their permanent counter parts from the date of their initial recruitment;
- (3) To restrain the management of Air India from transferring its units to the International Airport Authority of India; and
- (4) To restrain the International Airport Authority of India from getting work done from private contractors."

2. As per statement of claim the brief facts of the present dispute are that the workers in question have been serving the Air India for a long time and deserve to be regularised in view of the services rendered by them. The artificial breaks which are given under the arbitrary policy of Air India being illegal have to be ignored while reckoning the period of services rendered by the workmen and as a result the workers should be deemed to have been in continuous service without break. The policy of Air India is arbitrary and unfair and also amounts to unfair labour practice under section 25(T) of the I.D. Act. The services of the workmen are being dispensed with not by separate Order of retrenchment or termination but by the letter of appointment itself. No notice of retrenchment is given to particular workmen nor is he paid any retrenchment compensation at the time of the termination of his services. The retrenchment of the workers is also not done in accordance with the Mandatory provisions of section 25-G and N of the I.D. Act. In fact one batch of the workmen is removed from the service and is insistently substituted by another batch of workers. As a result none of the workers are allowed to be in continuous service and through this deliberate devious means denied all statutory benefits available to them. The work rendered by the workmen of Air India is of perennial nature and is the permanent work assigned under the usual course of business conducted by the Air India and the appointment of the workmen as casual/temporary workers to do the work is arbitrary, illegal and unconstitutional. The workmen who have represented through the Union before this Tribunal were denied the equal wages for the work rendered by them in comparison of their regular counter parts. They are also being denied the other benefits available to their regular counter parts which is discriminatory and violative of Enquiry. They were entitled to equal wages for equal work.

3. The work being done by workers of Air India is sought to be cancelled by the International Airport Authority under the conspiracy to deprive the petitioners of their livelihood. The International Airport Authority of India gets the work done through contracted labour which is violative of the provisions of section 16 of the Contract Labour Abolition and Regulation Act, 1970, but the Employment of the contract labour by International Airport Authority of India is specifically repugnant of the above said provisions and the Air India should be resisted from transferring the work done by the workers.

4. The conduct of the Air India in keeping the workmen as casual/temporary is mala fide and illegal and the workmen who were continuing in employment under the status quo order issued by the Hon'ble Supreme Court were unceremoniously removed from the service immediately after

the orders of the Supreme Court directing the dispute to be referred to this Tribunal. The measure was the retaliation step on the part of the Air India to victimise and harass the workmen for illegal action.

5. In the circumstances, it was prayed that Air India be directed to:

- (a) regularise the workmen from the date of their initial appointment.
- (b) to direct the Air India to give all back wages and arrears to the workmen on the basis of equal pay for equal work from the date of their initial appointment.
- (c) to restrain the Air India from transferring its units to the International Air Port Authority of India.
- (d) to restrain International Airport Authority of India from getting the work done from Private Contractors.

6. The Air India Management in its written statement alleged that Shri Ram Kishan and 101 others had filed writ petition No. 58/87 before the Hon'ble Supreme Court and similarly Shri Kanwar Lal and 69 others filed writ petition No. 604/87 before the Hon'ble Supreme Court.

7. Air India Workers Union who were petitioners in Writ Petition No. 604/87 and not in petition No. 58/87 before the Hon'ble Supreme Court filed a statement of claim in respect of the workmen as shown in Annexure I and II of the terms of reference, although they were not authorised or competent to represent S/Shri Ram Kishan and 100 others as shown in Annexure II of the reference. Air India Workers Union were entitled to represent only 70 workers i.e. Kanwar Lal and 69 others who were party in writ petition No. 604/87. In preliminary objections it was alleged that there has been no espousal by the majority of the workman as the demand was never made and, therefore, the petitioner should be put to strict proof. The demands raised in Annexure I and II to the reference do not constitute an Industrial dispute they were not employees of Air India and have been engaged from time to time on casual basis in respect of casual jobs to be performed by them. There was no relationship of employer and employee between the management and these persons. The matter regarding regularisation of petitioner by very nature cannot be subject matter of industrial dispute as it was basically a management function to determine and decide at a given point of time and total strength of its employees. The Industrial Tribunal is not vested with the authority to direct the management to increase its strength of employees as it would tantamount to interfere with the management functions which was not permissible under law. Engagement of certain persons as casual employees depends upon exigencies of work and it was exclusively a management function to decide as to what constitutes such exigencies as may require engaging casual labour. Even the Hon'ble Supreme Court has not granted the relief of regularisation in many of the cases which recently came before the Hon'ble Supreme Court. At the most a direction was given to the management concerned to formulate a proper scheme for absorbing the casual labour over a period of time. Accordingly no relief could be given to the petitioners mentioned in the two lists regarding their regularisation. In case of Air India no scheme can be prepared for absorbing casual labour in regular employment for the simple reason that there was no need for employment of loaders on regular basis. This was primarily due to the fact that certain airlines to whom Air India provides handling services have made their own arrangements or have made arrangement with private parties to render various services to them regarding handling of the flights. The International Airport Authority of India has also decided to render services regarding handling of flights directly to the foreign airlines and particularly cargo services which have been taken over by the said Authority including Air India's own cargo handling. For these reasons it was not possible for Air India to increase its strength of regular loaders and it may become necessary in the near future to phase out even the regular loaders if they are rendered surplus to the requirement on account of redundancy.

8. On merits again it was urged that the statement of claim was misconceived and based on misconception of law. The petitioners had no claim towards regularisation of their casual services and artificial breaks were not given. None of the petitioners at any point of time completed 240 days of continuous service and the question of taking into consideration the period of break as alleged while reckoning their period of service by the said petitioner did not arise. It was denied that the policy of Air India was arbitrary and unfair and the same amounts to unfair Labour practice under section 25(T) of the Industrial Disputes Act, 1947. Petitioners were engaged purely on casual basis to perform job functions which are of casual nature. The question of taking such persons on permanent regular basis did not arise for various reasons as mentioned below:

- (i) Air India, being the national carrier, is required to handle various other carriers, viz. Lufthansa German Airlines, Saudi Arabian Airlines, Singapore Airlines, Lot Polish Airlines, Iraqi Airways etc. and the contractor for handling their operations are entered into and renewed with these national carriers and other carriers on yearly basis, on the basis of the work performance of this Respondent Corporation. These contracts are of purely temporary nature and not permanent. Similarly work undertaken to be performed under these contracts is also of a casual and temporary nature.
- (ii) About 15% of the regular/permanent employees remain away from work without permission/prior intimation, and the nature of the airline industry is such that the answering Respondent Corporation does not engage the casual workers to fill in the gaps created by the absentees, the entire working of the airline will get paralysed, therefore, as a result of imperative necessity, the casual workers are engaged against these absentees.
- (iii) The answering Respondent Corporation at times, has to handle cargo on seasonal basis and, therefore, cannot engage workers on permanent basis for these seasonal requirements.
- (iv) At times, the answering Respondent Corporation is also required to handle special 'Charters' for transportation perishables and precious are objects to the respective destinations within the stipulated time period and carriage of such articles cannot be delayed under any circumstances. The holding of India Festivals abroad make it all the more important for the national carrier to transport such articles.
- (v) Air India, as a national carrier is also required to handle special assignments, viz. Non-aligned Meet (NAMI), Commonwealth Heads of Governments Meetings (CHOGM), Asian Games, International Sports Meets, International Political Conferences etc. etc. This being a one-time exercise, to perform the same, the answering Respondent Corporation has to engage casual workers to carry out the special jobs entrusted to the national carrier, under various Government of India orders.
- (vi) The answering Respondent Corporation is also required to handle special Haj Charters for transporting the pilgrims to the holy place and back. This is also a seasonal requirement.
- (vii) The Respondent Corporation is also required to operate Horse/Cattle Charters periodically to meet the urgent defence needs of the country.
- (viii) At times, keeping in view their business economics, the other carriers operating through Delhi withdraw their operation, reduce/increase the frequency of their flights which are handled by the Respondent Corporation, as such, casual workers are engaged in accordance with the magnitude of the work load.
- (ix) The climate conditions do have an effect on the working of the airline industry. In winter months when the city and adjoining areas are covered by fog, the visibility becomes near zero and the entire airline functioning comes to a standstill and the

Respondent Corporation eagerly wants for the fog to clear to re-start its operations so that the flights leave for their destinations. Similarly, during the summer months, due to frequent dust storms and heavy rain, the flights cannot land and take off in time. Some times, whether conditions in the out station from which the flight landing time. For example, during the monsoons, due to heavy rains, in Bombay the flight timings of flights from Bombay are totally disrupted. For such circumstances, the employees are asked to continue overtime to meet the work-load requirements.

- (a) In certain cases when a particular job is to be carried out by a specialised worker in the absence of other specialised worker, employees are asked to continue overtime for meeting the work load requirements. For example, for a Traffic Assistant or a Technician, the employees of same categories will have to be detained for overtime.

9. The aforesaid clearly shows that the respondent corporation attends to the jobs and work load of which does not remain the same always but keeps on decreasing/increasing for the said reasons. The mere fact that these persons do not serve the respondent corporation since long could not give them right of employment/re-employment. Efforts have been made by the Management constantly to absorb a large number of casual employees provided they satisfied the other requirements laid down by the Corporation. 428 labours/handling men/cleaners have been absorbed during the last 15 years in Delhi itself by the Corporation on permanent basis depending on the work load assessed from time to time by a team of experts from the Manpower Department. In accordance with the President's Directives issued by the Government of India, the Respondent Corporation is required to fill in 7-1/2% from amongst the category belonging to Scheduled Tribe.

10. The casual workers were engaged by the respondent Corporation intermittently only to meet the unforeseen and sudden increase in work load due to the various reasons mentioned above. It was denied that in fact one batch of workmen was removed from service and was substituted by another batch of workers. It was also denied that the work done by the respondent Corporation was of permanent nature. The respondent Corporation handle the other Carriers/Air lines like Japan Airlines, Singapore Airlines, Pan Am, etc. on year to year contract basis subject to satisfactory work performance and such contracts are not permanent in nature and entail entrusting of specific jobs for a specific period. Some Airlines have subsequently withdrawn their operation through a particular point and in some cases they have terminated their contract viz-a-viz flight handling which work used to be handled by the respondent Corporation. It is clearly shown that the respondent Corporation could not employ anyone on permanent basis for handling such contractual assignment. Periodical work study to assist the work load as carried out by Government Agencies as well as Respondent Corporation on scientific methods, and whenever it was found that regular incumbents were required to be inducted, the casual workers candidates were considered for regular appointment subject to their fulfilling the laid down conditions and availability of vacancies. Due weightage is given to the length of casual service by each of the candidates there was no violation of fundamental/constitutional rights of the petitioners who were engaged as casual labours since about middle of 1985, due to security and other administrative reasons, handling of cargo has been taken over from the Respondent Corporation by the International Airport Authority of India. The said Authority has similarly taken over the work relating to Cargo handling from other International Cargo. In view of this stoppage of these operations by International Airport Authority of India, Respondent Corporation does not require any casual employees. In so far as handling Cargo was concerned. As the transfer of handling of cargo was not done in collusion with the International Airport Authority of India the claim of the applicants workmen was misconceived and deserves to be dismissed.

11. The International Airport Authority of India in its written statement alleged that the authority has been unnecessarily dragged into this controversy as the workmen were never working with that Authority. Prior to 1-5-86 Central

Warehousing Corporation was handling the import cargo of international flights which the export cargo of International flights was handled directly by the respective Airlines. On or about 1-5-86 the New International Terminal Complex was commissioned and the Cargo Complex of the respondent authority came into existence. The entire working of the handling was streamlined and put under one roof in the greater interest of the public. All functions were taken over by the respondent authority. It was confined within the cargo complex and not on the Air side where it is handled by the respective airlines including M/s. Air India work to the limited extent has been taken over by the respondent authority from Air India which were very small i.e. handling within the cargo complex from Air India and all other functions as alleged to be performed and carried out are still with Air India. The handling operations are being performed by the respondent authority through their regular employees and it was only the labour oriented work like loading, unloading, packing and unpacking for which contract has been given by the name M/s. Sea Hawk Cargo Carriers Pvt. Ltd. It has been entrusted the functions of providing labour, packers, material for packing tools etc. are being paid on lump-sum basis per unit. All other claims alleged in the statement of claim have been denied by the International Airport Authority respondent and it has been alleged that the claim was infructuous and liable to be dismissed.

12. I have heard representative for the parties and have gone through the record.

13. The representative for the management has urged that the written statement submitted by the Management may be treated as a part of their arguments. It was alleged that the demands raised on behalf of the workmen do not constitute an Industrial Dispute. In this regard AIR 1968 Supreme Court 529 has been referred (Sindhu Resettlement Corporation Ltd. Vs. Industrial Tribunal of Gujarat and others) in which it was held that "if no dispute at all is raised by the employees with the Management any request sent by them to the Government would only be a demand by them and not an industrial dispute between them and their employer."

The first demand of the workmen to regularise them from the date of their recruitment was not at all tenable. It was clear that the status of the workmen was casual and their regularisation from the date of their recruitment could not be acceded to. The regularisation can only be from the prospective date and not from the date of their initial recruitment. They were employed on casual basis in respect of casual jobs to be performed by them. There was no need for the employers to employ the workmen on regular basis. The engagement on casual basis also depend upon certain other factors which have been given in detail in the written statement. They include the handling of other airlines by the Air India as and when they no require. There was no regular work for the casual workers as the respondent Corporation has to handle cargo on seasonal basis and could not engage workers on permanent basis for these seasonal requirement. They were also required to handle special charters for transportation of perishable and precious art pieces within the stipulated period to the respective destination within the stipulated time period and carriage of such articles could not be delayed under any circumstances. The Air India, as a National Carrier was also required to handle special assignments for example non-align meet, Common wealth needs of Government Meeting, Asian Games and other International Conferences etc. It has to handle special 'Charters' for transportation of pilgrim to the holy place and back. At times, keeping in view their business economics, the other carriers operating through Delhi withdraw their operation, reduce/increase the frequency of their flights which are handled by the Respondent Corporation and as such, casual workers are engaged in accordance with the magnitude of the work load. The climatic condition do have an effect on the working of the Airline industry. Visibility becomes near zero during Winter months and the entire function of the Airlines comes to a standstill. Similarly due to frequent dust storms and heavy rains in some months flights could not land and take off in time. In such circumstances the employees were asked to continue overtime to meet the work load requirements and engaged on casual basis.

14. Since the contracts with the other Airlines were not permanent and could be terminated at any time the management could not appoint these casual workers on permanent basis. In *Workmen Vs. British Overseas Airways Corporation*, New Delhi Vol. 23 FJR 474 it was observed as follows :

"The conditions in which staff of an Airlines Company has to work and the way in which Airlines have to be operated differ widely from those in other industries like factories, shops and offices."

The work of the petitioners was entirely different from that of the ordinary industry and shops and their duties were of casual nature and as such they could not be regularised. The breaks which are given in the case of the workmen was imminent due to the nature of their duties and the requirement of certain number of workmen depends upon the unauthorised absence on the part of the regular employees and on some other factors like very short notice of the management. For that reason the management has to keep a larger number of persons on their payroll for engagement of casual labour. There was no sanctioned post and the petitioners as such could not be regularised. In this regard the following Hon'ble Supreme Court judgment has been cited by the management in which it was held as follows :

"*Dhirendra Chomon and another Vs. State of UP*  
1986 (1) SCC 637

"We therefore, allow the Writ Petitions and make the rule absolute and direct the Central Government to accord to these persons who are employed by the Kendra Yuva Kendra and who are conceded by performing the same duties as Class IV employees, the same salary and conditions of service as are being received by Class IV employees except regularisation which cannot be done since there are no sanctioned posts."

The Board of Directors of the Corporation acts under the guidelines of the Government of India in the matter of sanction of number of posts and while sanctioning such posts there are number of factors that have to be taken into account by the Government. In this regard the following judgment of the Hon'ble Supreme Court has again been referred and the following excerpts was quoted from the judgment :

The Dharwad District P.W.D. Literate Daily Wages Employees Association  
Versus

State of Karnataka [1990 (2) SLR 53]

"Para 24—We are alive to the position that the Scheme which we have analysed is not the ideal one but as we have already stated it is the obligation of the Court to individualise justice to suit a given situation in a set of facts that are placed before it. Under the scheme of the Constitution, the purse remains, in the hands of the executive. The Legislature or the State controls the Consolidated Fund out of which the expenditure to be incurred in giving effect to the scheme will have to be met. The flow into the Consolidated Fund depends upon the policy of taxation depending perhaps on the capacity of the payers. Therefore, unduly burdening the State for implementing the Constitutional obligation forthwith is to create problems which the State may not be able to stand. We have, therefore, made our directions with judicious restraint with the hope and trust that both parties would appreciate and understand the situation. The instrumentality of the State must realise that it is charged with a big trust. The money that flows into Consolidated Fund and constitutes the resources of the State comes from the people under welfare expenditure that is to be meted out goes to the same Funds back to the people, may be that in every situation, some tax-payer is not the beneficiary. That is the incidence of taxation and a necessary concomitant of living within a Welfare Society."

15. The Management further urged that the petitioners have not adduced any evidence in respect of the fact that

by very nature of their work they were similarly placed as regular employees. The doctrine of equal pay for equal work could not be applied as no evidence to this effect was produced by the workmen in this case. It was urged by the representative for the Management that in *Mewa Ram Kanoria Vs. All India Institute of Medical Sciences and Ors.* 1989 (2) SCC 235 it was observed as follows :

"The doctrine of 'Equal pay for equal work' is not expressly declared a fundamental right under the Constitution. But Article 39(d) read with Article 14 and 16 of the Constitution declares the constitutional goal enjoining the State not to deny any person equality before law in matters relating to employment including the scales of pay. Article 39(d) read with Article 14 and 16 of the Constitution enjoins the State that where all things are equal, persons holding identical posts, performing identical and similar duties under the same employer should not be treated differently in the matter of their pay. The doctrine of 'Equal pay for equal work' is not abstract one, it is open to the State to prescribe different scales of pay for different post having regard to educational qualifications, duties and responsibilities of the post. The principle of 'equal pay for equal work' is applicable when employees holding the same rank perform similar functions and discharge similar duties and responsibilities are treated differently. The application of the doctrine would arise where employees are equal in every respect but they are denied equality in matters relating to the scale of pay. The principle of 'equal pay for equal work' has been enforced by this court in *Ranghir Singh v. Union of India*, *Dhirendra Chomon v. State of U.P.*, *V. I. Thomas v. Union of India*, *P. Savita v. Union of India*, *Bagwan Dass v. State of Haryana* and *Jaspal vs. State of Haryana*. In all these cases this court granted relief on the application of the doctrine of 'Equal pay for equal work'."

The onus to prove that the workmen were entitled to the same salary which the other counter parts placed in similar positions was on them which they have utterly failed to prove. There has been no malafide intention on the part of the management to victimise the workmen and it was the management which took the initiative and prepared a scheme for regularisation of the workmen. This initiative was taken even though the nature of the work was casual and the workmen could not be regularised in the absence of sanctioned post. The Management has thus urged that a detailed scheme has been prepared which has also got the approval of the Board of Directors for absorption on regular basis the workmen in question in a phased manner. The details of that scheme have been separately submitted by the management in this case.

16. As regard the third point regarding restraining the management from transferring its units to International Airport Authority of India and from restraining the International Airport Authority of India from getting work done from private Contractors it has been urged that no such restriction could be imposed on the Air India Corporation or on the International Airport Authority of India which function under a statutory status and their functions cannot be limited by this Tribunal. The representative for the management has finally urged that they were prepared to implement the scheme offered by them but were not prepared to pay wages to the workmen equivalent to that of regular counterparts.

17. The representative for the workmen in his arguments alleged that the Management has deliberately made a policy of limiting the employment of the workmen under reference for 180 days just with the object of depriving them the benefit of permanent service which they would have got if artificial break was not given. By a letter of the Director of Personal Industrial Relations all Divisional Heads of the respondent management were directed to cut down the period of initial appointment from 180 days to 110 days by giving artificial breaks in service in the manner explained in the said letter. The decision taken vide that letter was implemented to see that no temporary/casual worker were employed for a period of 240 days during a calendar year as

the direction contained in the letter stated that it must be ensured that no temporary/casual worker is employed for a period of more than 220 days in a period of 12 calendar months in future. Letter dated 30th October, 1984 was necessary to highlight the illegal policy of the respondent management which was calculated more to deprive the workmen herein of their statutory benefits and claims. The following is the extract of the said letter :

"The services of following casual loaders will be dispensed with effect from the date mentioned against them..... You are requested to provide the re-employment on due dates.

18. The periodical breaks in the services were not due to circumstantial necessities but out of deliberate implementation of the illegal policy in question. Various representations of the workmen including their union submitted a number of representations to the respondent management for regularisation of their services and to make them permanent. The respondent Management, however, did not take any judicial decision in favour of the workmen because the Management could avail of their service at much cheaper rate compared to the emoluments and benefits admissible to the permanent employees of the same categories. The workmen approached the Hon'ble Supreme Court by way of filing a writ petition under Article 32 of the Constitution of India. The Management, however, took such pleas which had no basis to deprive them off the benefits they could have got if artificial breaks were not given. It has been finally urged that the Management was bound to pay to the regular employees wages/pay equal to that of permanent employees of the same category on the principle of equal pay for equal work. This demand could not be rejected simply on the ground that the workmen have not come into the witness box to prove the exact nature of duties performed by them technically. The designation of the temporary/casual workers and the designation of the regular employees were the same and same work used to be taken from casual workers as from the regular employees. There was no justification for not paying them the same pay as was being paid to the regular workman of the same category. In view of this the first two demands of the workmen were required to be answered in their favour.

19. After having gone through the points urged before me by the representative for both the parties, I am of the opinion that there is sufficient force in the contention of the representative for the workman. As regards the payment of equal pay for equal work a casual worker who gets into service, has also to work at odd hours, cannot be deprived off the equal wages for the same work which his counterparts are doing. The mere fact that the workmen have not been able to give detailed evidence regarding the nature of work being performed by them and their regular counterparts cannot deprive them of their legal dues. It has not been disputed by the management in any of its evidence which consist of the statement of Shri D. S. Kohli MW-1 that the work done by the casual workers is in any way different than the work done by the regular counterparts. In this context I am fortified by the law laid down by the Hon'ble Supreme Court in Dhirendra Chamoli and another and State of U.P. 1986 (1) LLJ 134, Supreme Court wherein it has been held as under :

"Constitution of India—Art. 14—Equal pay for equal work Employees engaged as casual worker on daily wage basis Performing identical work as Class IV employees of Nehru Yuvak Kendras—Employees engaged on casual basis not paid the same salary and allowances—Class IV employees engaged on casual basis entitled to same salary and allowance like employees appointed on regular basis—Acceptance on the part of casual employees to get daily wages and not the same wages as regular employees is no answer to the constitutional guarantee under Art. 14—Appointed against sanctioned posts or otherwise does not make any difference.

Number of persons were appointed as casual workers on daily wages basis by Nehru Yuvak Kendra Dehradun. Such casual workers perform the same work as Class IV employees of the same Kendra appointed on regular basis. These casual workers accepted the appointment on the understanding that they will not be paid the salary and allowances

paid to regular Class IV workers. Two employees of the Kendra writing a letter to the Supreme Court demanding equal pay for equal work. This letter was treated as writ petition.

Allowing the writ petition, held, that the casual workers cannot be denied the same salary and conditions of service of regularly appointed class IV employees, when they perform the same duties as Class IV employees appointed on regular basis. The fact that these casual employees accepted employment with full knowledge that they will be paid only daily wages and they will not get the same salary and conditions of service as other Class IV employees cannot be a ground to avoid the mandate of equality enshrined in Art. 14 of the Constitution. It is implicit in this article that there must be equal pay for work of equal value. It makes no difference whether these casual employees are appointed against sanctioned posts or not.

Central Government was directed to accord to these casual employees who are performing the same duties as regular Class IV employees, the same salary and conditions of service as are being received by Class IV employees appointed on regular basis."

The above authority has been followed in *Surinder Singh and another and the Engineer-in-Chief CPWD and others* 1986 (1) LLJ 403 Supreme Court of India wherein it has been held as under :

"Constitution of India—Art. 29—"Equal pay for Equal work" is a more abstract doctrine incapable of enforcement by Courts of law? Daily-wage employees claim to get salary on par with permanent employees—Central, State Governments and public sector undertakings should function as model employers.

Employees of Central Public Works Department who are employed on daily wages for several years claimed that they should be paid the same wages as permanent employees doing identical work.

Allowing the writ petition held the contention that doctrine of "equal pay for equal work" was mere abstract doctrine and that it cannot be enforced in a Court of law cannot be advanced on behalf of the Central Government, 36 years after the passing of the Constitution and 11 years after the Forty Second Amendment proclaiming India as a Socialist Republic. Like all organs of the State, the Central Government is committed to the 'Directive principles of State policy and Art. 39 constitutes the principle of equal pay for equal work. The Central Government, the State Government and likewise all public sector undertakings are expected to function like model and enlightened employers and they cannot raise the plea that doctrine of equal pay for equal work is an abstract doctrine which cannot be enforced in a Court of law.

Central Government should pay equal pay to the writ petitioners and all other daily rated employees the same salary and allowances as are paid to regular and permanent employees with effect from the date of employment.

While expressing regret that many employees are kept on daily wage basis without their services being regularised we hope that appropriate action would be taken to regularise the services of all those who have been in continuous employment for more than six months."

20. In view of the above discussions I am of the view that the workmen who have been appointed on casual basis are entitled to same wages payable to their regular counterparts from the date of their initial appointment and there is to reason to disallow the differences that becomes payable to them on the said principle of 'equal pay for equal work'.

21. Regarding the regularisation of the workmen from the date of their recruitment the points urged by both the representative for the parties lead me to the conclusion that the scheme prepared by the management to absorb the workmen in a phased manner was fully justified. All the workmen cannot be absorbed in one stroke as there are no exist-

ing vacancies. This scheme was discussed in detail in the written arguments submitted by the management and even in the arguments filed by the workmen there was reference to the said scheme which was objected by the workmen that the very nature of the conditions enumerated in the scheme namely medical, sickness, interview etc. made it is clear that these conditions could not be applied to the workmen in service and were meant for application at the time of first employment. This scheme was not accepted by the workmen for that very reason.

22. The scheme submitted by the management reproduced as follows :

"Statement of Mr. D. S. Kohli, Deputy Personnel Manager-NI, New Delhi, in connection with Casual Labourers' case on 10th May, 1990.

As suggested by the Hon'ble Presiding Officer of the Central Government Industrial Tribunal, New Delhi, we had submitted a detailed proposal for absorption/regularisation of casual employees who have been working with us from time to time on daily wage basis.

We would like to inform the Hon'ble Tribunal that the proposal was submitted to Air-India Board and we are pleased to inform that the Board has approved regularisation of casual employees in its meeting held on 15-3-1990, who had been working with us from time to time in phases over a period of three years. The Air-India Board has approved 175 vacancies as per following details :

1990-91	...	60
1991-92	...	60
1992-93	...	55
		Total : 175

We propose to draw out a list of petitioners who had been working with us on casual basis alongwith other casuals in order of seniority of number of days actually worked in descending order as per the following criteria :

- (1) Total number of days would be calculated as on 31-12-1987 since the reference was made by the Central Government for referring the dispute to the CGIT on 23-9-87.
- (2) Only such of the casuals would be eligible for employment who had actually worked for a total period of not less than 240 days during their entire span of service in Air India as on 31-12-1987 ;
- (3) Such of the casuals who have not worked with Air-India after 1-1-1986 would not be eligible for consideration under the above Scheme ;
- (4) Such of the casuals against whom there are cases of misconduct would not be eligible for considera-

tion under the above scheme. This is as per the Order passed by the Hon'ble Presiding Officer of the CGIT on 5th January, 1988 ;

- (5) The casuals would be regularised as per the Corporation's recruitment procedure including the interviews, pre-employment medical examination and verification of character and antecedents by the Police authorities etc. Age relaxation would be given; and

- (6) In terms of the above procedure, 112 writ petitioners would become eligible for regularisation/absorption subject to Air-India recruitment procedure, over the period of next three years in phased manner.

Dated : 10th May, 1990  
New Delhi.

Sd/-

(D. S. Kohli)

Dy. Personnel Manager-NI,  
Air-India."

23. Since there are no existing vacancies to recruit all the workmen at this stage I, therefore, am of the opinion that this scheme as suggested be followed to regularise the workmen in order of their seniority and interview also. As and when any vacancy arise the eligible workmen out of the list annexed with this Order shall be taken in employment at that time subject to his medical fitness. I, therefore, hold that the regularisation of these workmen shall be done in accordance with the scheme prepared by the management and reproduced herein before. The workmen shall be compensated by paying them the difference of wages with their regular counter parts. The due drawn chert for this payment be prepared within three months and be paid to the workmen within a further period of two months.

24. As regards demand No. 3 and 4 I do not find any justification either to restrain the management of Air India or to restrain the international Airport Authority of India from getting the work done from private contractors. In view of the circumstances of this case, I leave the parties to bear their own costs of this reference.

Dated : March 4, 1991.

GANPATI SHARMA, Presiding Officer

[No. L-11025/2/87-D.II (B)]

#### ANNEXURE-I

#### DETAILS OF SERVICE AIR INDIA WORKERS

D. No.	Name and Father's Name	Address	Date of Joining	Design	Period of Service From to	Total No. of days
1	2	3	4	5	6	7
2/1	Kanwar Lal S/o Sh. Shri Bhagwan	1 Khybar Pass Market, Civil Lines, Delhi-54	27-2-78	C/Labour	1978 to 1986	910 days
20/2	Rajinder Pd. S/o Sh. Pawar Chand	1157/12 Gobind Puri, Kalka Jt, New Delhi-19	23-9-80	"	28-9-80 to 26-12-86	1100 day
16/3	Ramesh Kumar S/o Sh. Jindu Ram	H. No. B.B. 258 Nawi Karim, Pahar Ganj, New Delhi-55	25-3-81	"	25-3-81 to 1986 still working	950 days
43/4	Raj Pal Singh S/o Sh. Ram Singh	WZ-267 Narayana Village, New Delhi-28	20-3-80	"	20-3-80 to 1986	1100 days
43/5	Mitesh Kumar Bali S/o Sh. Tej Bahadur Bali	209/13 Ram Lila Ground, Gurgaon Distt. Gurgaon	13-3-80	"	10-3-80 to 1986	650 days

1	2	3	4	5	6	7
36/6	Ramesh Kumar S/o Sh. Matu Ram	Maharam Nagar, Village H. No. 8/88, Palam Air Port, New Delhi Cantt-10	17-10-81	C/Labour	17-10-81 to 1-1-187	550 days
35/7	Rattan Singh S/o Sh. Shobha Chand	WZ-344, Gali No. 6, Sahad Nagar, Palam Colony, New Delhi-45	17-9-85	„	17-9-85 to 19-1-87	336 days
27/8	Vijay Parkash S/o Sh. Sharen Debhal	Q. No. 1, Yellow Park Hospital, Palam Air Port New Delhi-10	25-3-81	„	25-3-81 to 23-2-86	870 days
38/9	R.P. Singh S/o Sh. Shyam Lal	C.P.A. 38, New Seelam Pur, Sahadara Delhi-53	12-10-79	„	12-10-79 to 15-11-86	1020 days
39/10	Bhala Nath S/o Sh. Seeta Ram	H. No. 44, Aliganj, Lodhi Colony, New Delhi.	15-2-80	„	15-2-80 to 1986	360 days
29/11	Raghubir Singh S/o Ishwar Singh	East Mohan Nagar, Palam Airport, New Delhi-10.	9-8-81	„	9-8-85 to 1987	1100 days
42/12	Banne Lal S/o Sh. Buddhu Lal	New Basti Nangal Dairy, Gurgaon Road, New Delhi-37.	9-8-85	„	9-8-85 to 1987	330 days
28/13	Avinash Asthana S/o Sh. Kailash Chand Asthana	Q. No. 871, Sector No. 8, R.K. Puram, New Delhi.	5-3-80	„	5-3-80 to 1986	950 days
57/14	Devta Din Shukla S/o Shri Umar Shankar Shukla	C-2420, Mata Nagar, New Delhi-23.	19-7-84 to 1986	„	19-7-84 to 1986	435 days
36/15	Raj Kumar S/o Sh. Chhote Lal	A 33/514 Air, Air India Colony, Vasant Vihar, New Delhi-57.	1977	„	1977 to 1987	1490
37/16	Kunwar Pal S/o Sh. Sumur	1738, K.M.P. Sher Singh Bazar, New Delhi-3.	16-7-80	„	16-7-80 to 11-1-87	1300
48/17	Raj Kumar S/o Sh. Munshi Ram	31/60 East Mohan Nagar, Delhi Cantt-10	16-6-85	„	16-6-85 to 8-1-87	440
52/18	Mohan Lal S/o Sh. Tarsem Lal	Q. No. 987, R.K. Puram, New Delhi.	31-10-80	„	31-10-80 to 28-4-87	1100
17/19	Ram Chander S/o Sh. Rishal Singh	Villg. Gingali, Distt. Sonapat Station, Karkak Post Officer.	25-5-85	„	25-5-85 to 15-4-86	330
50/20	Shiv Shankar S/o Sh. Sohan Dass	A-1/8/308 Air India Colony, Basant Vihar, New Delhi-57.	30-4-85	„	30-4-85 to 1987	863
49/21	Vinod Kumar Sharma S/o Shri Modan Lal Sharma	Govt. Q. No. 20, Mohammad Pur, R.K. Puram, New Delhi- 66.	1-9-81	„	1-9-81 to 1987	850
41/22	Ram Parash S/o Sh. Kali Charan	1 WZ-119, Gali No. 10, Sadh Nagar Palam Colony, New Delhi-45.	1-4-80	„	1-4-80 to 2-2-87	1290
47/23	Itwari Lal S/o Sh. Da Dolla Ram	Q. No. C-34. Near Water Tank, New Ranjeet Nagar, D.T.C. Colony, New Delhi-8.	11-3-85	Driver	11-3-85 to 1987	330
40/24	Raj Kumar S/o Sh. Panji Ram	T. 31. East Maharam Nagar, Palam Airport, New Delhi Cantt-10	25-11-84	C/Labour	25-11-84 to 1987	335

1	2	3	4	5	6	7
56/25	Daulat Kumar S/o Sh. Sher Singh	Kala Mahal Basti, Chotte Ram H. No. 1476 Darya Ganj New Delhi-2.	18-2-90	C/Labour	18-2-80 to 1986	850
31/26	Ahok Kumar S/o Sh. Bhim Singh	E-441, D.D.A. Colony Khayala New Delhi-18	3-7-79	..	3-7-79 to 1982	400
30/27	Marya Dass S/o Sh. M.D. Sunda	H. No. 14 Dakshin Puri New Delhi-62.	11-11-81	..	11-11-81 to 20-4-87	960
32/28	Anil Kumar Sharma S/o Sh. Jai Prakash Sharma	H. No. 8-A Loni Gokal Puri Loni Road Shahdara Delhi-94.	10-6-81	..	10-6-81 to 1987	660
33/29	Rakesh Kumar S/o Sh. Jai Prakash Sharma	H. No. 8-A Gokal Puri Loni Road Shahdara Delhi-94.	21-1-92	..	21-1-82 to 1986	550
46/30	Suresh Kumar Gupta S/o Sh. Ram Kishan Gupta	1553 Gurdwara Road Kotla Mubarakpur New Delhi-3.	18-3-90	..	18-3-80 to 1986	1060
13/31	Daya Nand S/o Sh. Chuni Lal	C/o Ajit Singh 8/126 Maharam Nagar Delhi Cantt-10	20-7-78	..	20-7-78 to 1986	560
54/32	Man Singh S/o Sh. Ram Prakash	170 Bhavshys Nidhi, Malviya Nagar. New Delhi.	16-7-85	..	16-7-85 to 1987	330
53/33	Baljeet Singh S/o Sh. Ratti Ram	3/60 East Mahrom Nagar Delhi Cantt-10	August 1977	..	August 1977 to 1984	540
26/34	Chander Mohan S/o Sh. Ram Gopal	D.B. 36 C.L.I. G. Harinagar Town, D.D.A. Flat New Delhi.	5-8-80	..	5-8-80 to 4-4-82	360
11/35	Ramesh Kumar S/o Sh. Chotte Lal	17-A Charms Ford Rod. New Delhi-55.	6-8-81	..	6-8-81 to 1987	1100
9/36	Naresh Kumar S/o Sh. Babu Lal	Govt. Lady High School Deaf & Dumb., Q. No. Paji Shah Mohla New Delhi.	4-7-79	..	4-7-79 to 1987	1600
21/37	Kartar Singh S/o Sh. Raghbir Singh	Vill. Munirka H No. 167 P. O. N.J. 4 New Delhi.	1980	..	1980 to 1987	950
14/38	Shri Kumar S/o Sh. Bhawani Lal	No. 186 Shastri Nagar Near Indu Lok, New Delhi.	1980	..	1980 to 1986	1100
23/39	Inderjit Singh S/o Sh. Mohan Singh	WZ-119 Variudu Nagar New Delhi-58	11-3-81	..	11-3-81 to 1986	550
24/40	Ravinder Singh S/o Sh. Mohan Singh	Same	Sept. 1980	..	Sept. 1980 to 1986	440
55/41	Vijay Pal S/o Sh. Kali Charan	31/229 Trilok Puri New Delhi-91.	5 March 1980	..	5 March, 1980 to 17-2-86	8001
22/42	Shyam Babu Verma S/o Sh. Kishan Chand	H. No. RZ 5/297 Pole No. 64 Gali No. 5, New Gitanjali Park West Sagar Pur, New Delhi-48.	1980	..	1980 to 1986	900
19/43	Ransi Mohan S/o Sh. M.R. Bakshi	H. No. 39 Police Station Delhi, Cantt-10	1980	..	1980 to 1986	980
51/44	R.K. S Madrakar S/o Sh. Sukkan Singh	3035 Haryana Puri Subji Mandi New Delhi-7.	1980	..	1980 to 1986	1100



1	2	3	4	5	6	7
44/45	Om Parkash S/o Sh. Jai Kishan	1235, Ganj Mirkhan Turk Man Gate, Delhi-2	March, 1979	C/Loader	March 1979 to March 1986	1180
8/46	Subhash Chnd S/o Sh. Jari Singh	H.No. 200 Vill. & Post Kapa Hxa N. Delhi-37	2-7-80	„	2-7-90 to 1986	900
25/47	Naresh Chnd S/o Mohan Lal	D.B.A. House No. 46-A Janak Puri New Delhi-58	19-9-80	„	19-9-80 to 198	840
10/48	Nanal Singh S/o Sh. Suraj Mal	Shop No. 51, Ring Road Market, Sarojni Nagar, New Delhi-23	August 1981	„	August 1981 to 1986	550
x2/49	Vijay Sharma S/o Sh. R.B.L. Sharma	B.12/147 Basant Vihar Hir India Colony New Delhi-57	Nov, 1981	„	Nov. 1981 to 1986	660
15/50	Kishan Chnd S/o Sh.	H.N.R.Z. 5/297 West Sagar Pur Geetingh Park Gali No.5 New Delhi-46	1980	„	1980 to 1986	840
51	Hari Chand S/o Phool Singh	R. No. 11 Tayar Company Nagaldh Ry Gorgoan Road New Delhi	28-4-80	Casual Loader	28-4-1980 to 28-10-1980 3-4-81 to 29-9-81 25-11-83 to 31-3-1984	
IIInd						770
IIIrd						
52.	Raj Kumar S/o Sh. Om Parkash	X-297 Gali No. 3 Raghwar Pura Gandhi Nagar Delhi-31	22-4-80	Loader	22-4-80 to 19-10-80 22-4-81 to 19-10-81 19-11-83 to 16-3-84-85	
53.	Sikoo S/o Sh. Wali	H. No. 16 Nangal Dary Guragaon Road New Delhi-37.	1981	C/Loader	1881 to 1986	660 total
54	Ashok Kumar Taneja S/o Late Sh. Bag Raj Taneja	357 Site I Vikash Puri New Delhi-18	17-8-80	-do-	17-3-80 to 1 May 1980	1020
55	Tulsi Dass /S/o Late Sh. Ram Charan	19 Guglak Rd. New Delhi-11	11-7-85	-do-	11-7-85 to -8 Aug. 1986	330 days
56	Suresh Kumar S/o Sh. Nathu Ram	H. No. 143 South Enclave Dakshin Puri Janta, D.D.A. Flat New Delhi-62	1984	-do-	1984 to 1986	330 days
57	Onkar Wasu S/o Sh. Dharam Prakash	A-15 Near Govt. Higher Secondary School North Chonda Delhi-53	23-3-81	-do-	23-5-81 to March 1986	990 days
58	Mahipar S/o Harev	New Tata Nagar Gurgaon Road Mahipal Puri Dairy	14-11-80	-do-	14-11-80 to 1986 Last	1020 days total
59	Guru Prasad S/o Late Sh. Purnanand	R.Z-427, B/1 Raj Nagar Palam Colony, New Delhi-45	17-3-80	-do-	7-3-80 to July 1985	990 days total
50.	Naresh Kumar S/o Sh. Bhim Singh	Village & P.O. Kundhala Khurad, New Delhi-73	1980	-do-	1980 to May 1986	1020
51	Mahesh Chand S/o Sh. Chotte Ram	J. 126 N. Tata Nagar Mahipal Pur Dairy, Gurgaon Road New Delhi-37	3-8-82	-do-	3-8-82 to 10-2-86	660
52	Ashok Kumar S/o Sh. Mohc Ram	Vill & P.O. Mundhala Kalan, New Delhi-73		-do-		
53	Dinesh Kumar S/o Sh. Baldev Raj	312 Jheel Khurenja Patpad Road, Delhi-51	1982	-do-	1980 to 1986	660

1	2	3	4	5	6	7
64.	Vijay Kumar Verma S/o Sh. Babu Lal Verma	Lin Vijay Block Shakar Pur Tikana Park New Delhi-52	27-12-84	C/Loader	17-12-84 to 1986 still working	330
65.	Tilak Raj S/o Sh. Prabhu Tam	C-50 Madipur Colony New Delhi-63 Phone 7112670	22-8-81	Loader	22-8-81 to 14-12-81 27-2-82 to 20-11-82 14-2-83 to 17-6-83 21-11-83 to 2-1-84 13-9-84 to 5-1-85 8-8-85 to 1-12-85 14-3-86 to 9-6-86	
66.	Chanda Pal Singh S/o Late Sh. Dharam Singh	H. No. 301 Sujan Singh Katla Mubarak Pur Jam Bagh Basti Sewar Nagar New Delhi-3	13-3-91	Loader Peon	13-3-86 Continuous	212 Total days
67.	Baij Kishore S/o Sh. Bacchi Ram	41/52 Morelina Palam Delhi Cant New Delhi.	1-6-80	Loader	1-6-1980 to 1-12-1980 -1991 1981 to time 1988 1984 1985 1986	180 days 180 „ 220 „ 220 „ 220 „ 220 „
						1460 „
68.	Raj Kumar S/o Om Parkash	I 2971 Raghwar Pura Gali No. 3 Gandhi Nagar New Delhi-31	22-4-80	Loader	22-4-80 to 17-10-80 22-4-81 to 17-10-81 17-1-83 to 13-3-84	180 „ 180 „ 110 „
69.	Lallan Pradsad S/o Sh. Rama Dhar	A-32 501 Air India Colony 4 Basant Bihar New Delhi-57	1980	Loader	1980 to 1986 last	1100 total days <sup>s</sup>
70.	Ram Kishan S/o Sh. Devi Sharma	J-92, New Tata Nagar Mohipal Pur Dairy Gurgon Road New Delhi-37	2-12-80	„	3-12-80 to 29-9-86	840 total days

## ANNEXURE II

## DETAILS OF SERVICE OF AIR INDIA WORKERS

Sl. No.	Name & Fathers' Name/Address	Date of Joining	Post Held	Period of Break	Period of Service
1	2	3	4	5	6
1.	Ram Kishan S/o Udmi Ram 33, Sadh Nagar, Palam Colony.	31-07-80	Cleaner/Loader/Peon	—	31-07-80 to 12-03-87— 1390
2.	Oin Prakash S/o Sh. Ishwar Dharipad, K-22, Laxmi Bai Nagar, New Delhi-92	26-03-80	-do-	—	26-03-80—12-03-86— 10
3.	Bhudev Prasad S/o Shri Payro Lal, B-13/158, Air India Colony, Basant Vihar	19-05-80	-do-	—	19-05-80 Oct. 86—1170
4.	Sushil Kumar Verma S/o Sh. D.N. Verma WZ-139 of Nangal Raya, New Delhi-46	25-05-76	-do-		25-5-76—4-06-82—1011
5.	Balkrishan Kukreja S/o Ram Lal, 87-A, Bhoor Bharat Nagar, Railway Colony, Ghaziabad (U.P.).	12-3-80	-do-	—	12-3-80—24-7-86—1191

1	2	3	4	5	5
6.	Jeet Ram S/o Sh. Paburam, V & P.O. Sarohal, Distt. Gurgaon, Haryana	11-09-80	Cleaner/Loadun/Pcon	—	11-9-80—till date—1060
7.	Suresh Kumar S/o Sh. Yad Ram, Village Bhalsawa, Jhangrpur, P.O. Badli, New Delhi-42.	04-09-79	-do-	—	4-9-79—26-3-86—955
8.	Dinesh Kumar S/o Sh. Biwa Massih, A/649, D.D.A. Colony, Khayala, New Delhi-18.	01-09-81	-do-	—	1-9-81 — 7-5-86—990
9.	Vinod Kumar S/o Sh. Ram Kishan, A-404, Minto Road, New Delhi-2.	06-09-80	-do-	—	6-9-80—30-4-86—950
10.	Kamal Kishore S/o Sh. Jomima Rama, D-86 Gali No. 6, Bhajan Pura, New Delhi-53.	17-07-83	-do-	—	17-07-80—26-3-86—950
11.	Sunil Kumar Chauhan, S/o Shri Bhim Sain, Q.No. 5, Bapu Sadan Balmiki Basti, Mandir Marg, New Delhi-1.	23-01-81	-do-	—	23-1-81, 12-3-86—840
12.	Kakra Singh S/o Sh. Joginder Singh F-62, Khayala Sari, New Delhi-16.	05-04-80	-do-	—	5-4-80, 6-9-86—1020
13.	Sukkan Paswan, S/o Haroni Paswan, RZ-240-B, Gali No. G-70, Rati Ram Bagh, Raj Nagar, Palam Colony, New Delhi-45.	20-02-89	-do-	—	20-2-79, 2-6-86—950
14.	Raj Kumar S/o Sh. Nandlal, Village Saidulbad, P.O. Mahasoli, New Delhi-30.	18-06-81	-do-	—	8-6-81 29-1-86—880
15.	Vijay Kumar S/o Shri Shankar Lal, D-470-A, Raghubir Nagar, N. Delhi-27.	06-05-81	-do-	—	06-05-81, 1-6-86—770
16.	Bhagwan Dass S/o Sh. Jagdish Prasad, 654, Churiwalan, Chawri Bazar, Delhi-110 006	13-03-81	-do-	—	13-3-81, 31-3-86—740
17.	Brijender Kumar S/o Sh. Tara Chand WZ-611, Raj Nagar, Palam Colony, N. Delhi-54.	3-03-81	-do-	—	3-3-81, 12-3-86—840
18.	Karsem Lal S/o Shri Charan Dass, 165, B.N. Enclave, Malviya Nagar, N. Delhi-16.	29-7-81	-do-	—	29-7-81, 27-3-86—880
19.	Ram Lal S/o Shri Iqbal Kishan, Viswas Nagar, 60F Road, Red Light, New Delhi-110032.	19-8-80	-do-	—	19-8-80, 21-12-85—730
20.	Kripal Ram S/o Shri Charan Singh, 399/11, Arjun Nagar, Idgah, Gurgaon-122001.	03-03-81	-do-	—	3-3-81, 3-3-86—620
21.	Partap Singh, S/o Sh. Ganeshi Lal, 13, Basson Road, Minto Road, New Delhi-2.	7-7-79	-do-	—	7-7-79, 1985—800
22.	Rajinder Prasad S/o Sh. Ram Rattan Sharma C-724, New Friends Colony, N. Delhi-65	13-3-81	-do-	—	13-3-81, 6-6-86—620
23.	Om Prakash S/o Sh. Shyamlal, 45 (house No.) V. & P.O. Bijwasan, New Delhi-110061.	14-8-81	-do-	—	14-8-81, 19-7-84—550
24.	P.K. Srivastava S/o. Sh. D.N. Srivastava 42/3 Model Town, New Delhi-110009.	16-10-80	-do-	—	16-10-80, 1-9-86—620
25.	Ramesh Kumar S/o Sh Bhola Ram, J-37, Tata Nagar, Mahipal Pur Dairy, N. Delhi-37	11-03-80	-do-	—	11-3-80, 4-4-86—620
26.	Sunder Lal S/o Sh. Mohandar Singh, Village Sultanpur Mojara, Nangloi, New Delhi-41.	12-12-80	-do-	—	12-12-80, 16-2-86—620
27.	Rohtash Chand S/o Sh. Lala Ram, New Tata Nagar, Mahipal Pur Dairy, N. Delhi-37	23-01-81	-do-	—	23-1-81 till date—730
28.	Narender Kumar S/o Sita Ram, WZ-1314, Nangal Raya, New Delhi	24-8-79	-do-	—	24-8-79, Jan. 86—580
29.	Baljeet Singh S/o Sh. Chooti Lal, K-Block-III, Subroto Park, Civil Zone, New Delhi-10	22-11-83	-do-	—	22-11-83, 25-7-86—550

1	2	3	4	5	6
30.	Iqbal Singh s/o Sh. Karnal Singh, WZ-504, Raj Nagar, Palam Colony.	01-07-83	-do-	—	1-7-85, 5-6-86—440
31.	Md. Kasim Khan, s/o Sh. Inayat Ullah Khan, 11/60, East, Mahasur Nagar, Delhi Cantt-10.	24-07-84	-do-	—	24-7-84, 30-11-85—330
32.	Akash Chauhan s/o Sh. Dheram Pal Chauhan, F. 45, DDA Colony, Khayala, N. Delhi-18	14-06-85	-do-	—	14-6-85, 3-7-86—241
33.	Davinder s/o Sh. Ram Chander, T-73, Maharum Nagar, Delhi Cantt-10.	26-5-85	-do-	—	26-5-85, till date—328
34.	Gulab Singh Yadav s/o Sh. Ramhare Yadav, Village Mushidpur, P.O. Parakohnagar, Distt. Gurgaon	12-07-85	-do-	—	12-7-85, 30-4-85—330
35.	Inder Sain s/o Sh. Darshan Singh, 52/60, East Maharum Nagar, Delhi Cantt-10.	03-01-85	-do-	—	3-1-85 till date—330
36.	Gayan Singh S/o Sh. Sultan Singh, V. & P.O. Mahipalpur, New Delhi-37	13-5-80	-do-	—	13-5-80, 25-2-86—120
37.	Ram Kishore s/o Sh. Jagan Nath, WZ-87, Raj Nagar, Palam Colony, New Delhi.	2-6-80	-do-	—	2-6-80 to 10-11-86, 1170
38.	Mukesh Kumar, s/o Sh. Wazirchand, WZ-681 Raj Nagar, Palam Colony, New Delhi-45.	7-7-80	-do-	—	7-7-80 to 10-9-1986—1185
39.	Satvir S/o Sh. Balwant V & P.O. Chuman Hera New Delhi-73.	17-05-80	-do-	—	17-5-80 to 1986-1020
40.	Hari Shankar Yadav s/o Sh. Munnilal Yadav, C-326, Shardha Nand Gali, Nanak Chand Basti, Kotla Mubarakpur, N. Delhi.	17-10-80	-do-	—	17-10-80 to 1986—1100 days
41.	Harvinder Singh s/o Sh. Jaswant Singh, G-1, 953, Sarojini Nagar, N. Delhi-23.	22-4-81	-do-	—	22-4-81 to 4-10-86—950 days
42.	Mahabir Singh Yadav, s/o Sh. Pokhar Singh, Village Bahhrola, P.O. Palam, N. Delhi-45.	3-7-81	-do-	—	3-1-81 to 31-1-86—840
43.	Ram Singh s/o Sh. Paker Singh, Vill. P.O. Larsoli, Distt. Sonapat, Haryana	3-10-79	-do-	—	3-10-79 to 31-1-86—880
44.	Sat Bir Singh, s/o Sh. Khem Chand, House No. 205, Village Ladosarai, 20, Mehrauli, New Delhi.	22-3-80 22-3-80	-do- -do-	— —	— 22-3-80 to 31-5-86—840 days
45.	Sukhdev Singh, s/o Sh. Kuldeep Singh	5-7-80	-do-	—	—
46.	Rajinder Pd. Sharma s/o Sh. Bhorumal, WZ-524-B, G-77, Sadh Nagar, Palam Colony, New Delhi-45.	12-7-79	-do-	—	12-7-79 to 5-12-85—690
47.	Jai Prakash s/o Sh. Kishan Lal, 22/1 Ghee Mandi, Paharganj, New Delhi.	24-7-79	-do-	—	24-7-79 to 20-1-86—868
48.	Hans Raj Pahuja s/o H.C. Pahwa, D-I, 210, Lajpat Nagar, New Delhi-29.	7-3-81	-do-	—	7-3-81 to July, 86—707
49.	Raghu Raj Bhatnagar, s/o Shri J.P. Bhatnagar, 17/401, Than Singh Nagar, Anand Parbat, New Delhi-110005.	28-3-80	-do-	—	28-3-80 till date 833
50.	Bhrahm Pal Rajoria s/o Sh. Sukhbir Singh, New Tata Nagar, J-33, Mahipal Pur Dairy, New Delhi-37.	24-8-81	-do-	—	24-8-81 to 23-3-86—660
51.	Philip Gilbert s/o Sh. Bilbert, 33, Ahilya Bai Road, New Delhi-110002.	19-6-80	-do-	—	19-6-80 to 31-10-84—660
52.	Vinod Kumar, s/o Sh. D.S. Chauhan, RZ-2 A/21, Puran Nagar, Palam Colony, New Delhi-45.	25-12-83	-do-	—	25-12-83 to till date—550
53.	Rajinder Prasad s/o Sh. Duli Chand, House No.1314, 8 Biswa Mahapura, Gurgaon Vill.	4-8-80	-do-	—	4-8-80 to 30-4-86—510
54.	Makhan Singh s/o Sh. Rara Singh, 674, Ali Ganj, New Delhi-3.	1-2-80	-do-	—	1-2-80 to March, 1986—1130

1	2	3	4	5	6
55.	Manohar Lal Kashyap, s/o Sh. Lal Chand, WZ-752, Nangal Rai, N. Delhi-46.	29-5-11	-do-	—	29-5-81 to July, 1986—550
56.	Bipin Chander Pal Singh Rana s/o Shri R.P.S. Rana 62, F, Pocket III Mayur Vihar, New Delhi-91.	8-5-80	-do-	—	8-5-80 to 15-3-86—1130
57.	Vinod Kumar Sharma s/o Sh. Des Raj Sharma, C-242, J.J. Colony, Hastal, Uttam Nagar, New Delhi-59.	24-9-80	-do-	—	24-9-80 to 15-5-86—960
58.	Tara Prasad Bhandari s/o Sh. Dina Nath Bhandari C-1/5, Pandara Park, N. Delhi-3.	16-1-91	-do-	—	16-1-81 to 4-8-86—1060
59.	Sugan Chand Kaushik s/o Mohadri Kaushik, RZ-20-J/1, Near Gurudwara Sagar Pur, N. N. Delhi-46.	4-9-80	-do-	—	4-9-80 to 20-3-85—840 days
60.	Rajinder Singh s/o Rattan Singh, Vill. & P.O. Daulatabad Gurgaon, Haryana	20-10-83	-do-	—	21-10-80 till date 1224 days
61.	Hari Chand s/o Sh. Harphool Singh, 500/12 Jacob Pur, Near Mission School, Gurgaon.	2-7-80	-do-	—	2-7-80 to 30-4-86—730 days
62.	Niwaris Hussain, s/o Sh. Wazid Hussain, 25/2B, President Estate Rashtra Pati Bhawan, N.D.-4	7-5-81	-do-	—	7-5-81 to till date 960 days
63.	Gian Chand s/o Sh. Khub Chand, II-49, Jharora Village, Delhi Cantt-10	9-4-81	-do-	—	9-4-81 to 1-12-85—730
64.	Mohal Lal s/o Sh. Ram Bharose, Guru Nanak Darbar Public School, Near Wata Tank, N. Rajinder Nagar New Delhi.	12-3-80	-do-	—	12-3-80 to 26-6-86—1350
65.	Hari Chand s/o Sh. Brij Mohan, A-54/339, Janta Quarter, Janak Puri, New Delhi.	17-9-80	-do-	—	17-9-80 to 2-5-86—650
66.	Shanti Swaroop s/o Yad Ram Sharina Vill. & P.O. Samalka, New Delhi.	11-11-80	-do-	—	11-11-80 to 30-4-86—730
67.	Daljeet Singh s/o Shri Arjan Singh, 1/96, Sadar Bazar, Delhi Cantt-10	1981	-do-	—	1981 to 1986—960
68.	Bhim Sain s/o Sh. Ladha Ram, 537/8, Madan Puri, Mata Ka Mandir Gurgaon, Distt, Gurgaon (Haryana)	8-3-80	-do-	—	8-3-80 to 28-9-86—1460
69.	Hirbax Singh s/o Shri Bhim Sain Arya Nagar Kakkar pur Sagar pur, N. Delhi	11-6-81	-do-	—	—
70.	Durga Dass s/o Shri Mangoo Ram, 501, WZ. Raj Nagar, Palam Colony.	17-9-80	-do-	—	17-9-80 to 1986—950
71.	Satpal s/o Sh. Shyam Lal, WZ-500, Raj Nagar Palam Colony, N. Delhi-45.	3-2-77	-do-	—	3-2-77 to 30-9-83—980
72.	Suresh Kumar s/o Sh. Amo Lal, Village Darapur, P.O. Lukra, Distt.	1980	-do-	—	1980 to 1985—1130
73.	Ram Swaroop s/o Sh. Sukhram House No. 92, Yusuf Sarai, Harijan Basti, New Delhi-16.	9-3-80	—	—	9-3-80 to 1986—1390
74.	Shiv Prasad s/o Gurudas Mahipal Pur, Dairy, New Tata Nagar, New Delhi-47.	16-0-81	-do-	—	16-1-81 to 10-11-86 and onwards 510 days
75.	Jhamman Lal s/o Sh. Girvar Singh, Shop No. 19/3, Yusuf Sarai, N. Delhi-16.	3-2-79	-do-	—	3-2-79 to 6-1-86—800
76.	Ram Prasad s/o Sh. Ranlal, 293, Hauz Khas, i New Delhi-16.	17-9-80	-do-	—	17-9-80 to 26-9-86—1170
77.	Sumder Singh s/o Sh. Jhuhir Singh, RZ-8A K-114, Puran Nagar, Palam Colony-96.	16-5-81	Loader/cleaner/ Peon/Sweeper	—	16-5-81 to 26-4-86—700
78.	Surenjer Kumar Bhutani s/o Sh. Devi Dayal, 392-A, Arya Nagar, Near Taip Top Tailor, Basai Road, Gurgaon.	1981	-do-	—	1981 to 1986—600
79.	Suresh Chand, Janakpuri	30-9-81	-do-	—	30-9-81 to still working 770 days

1	2	3	4	5	6
80.	Balbeer Singh s/o Shri S.S. Dondiyal, 1/274, Dakshin Puri, Ext. New Delhi-2.	10-7-83	Loader/Cleaner/ Sweeper/Peon	—	10-7-83, 1984, 1985 still 1986-440 days
81.	Ramesh Chand s/o Sh. Shibba Ram, 20, Mochi Bagh, Balmiki Mohall, New Delhi-4.	26-7-80	-do-	—	26-7-80 to 26-9-86—1060
82.	Brij Lal s/o Sh. Kanak Singh, V. & P.O. Shakapur, N. Delhi-92, Arya Nagar.	1980	-do-	—	1980-180 days again to 1985-860 total days
83.	Yog Ran s/o Sh. Brahim Singh Vill. & P.O. Shakarpur, Arya Nagar, New Delhi-92.	1980	-do-	—	1980 to 1985 980 days
84.	Ram Lal s/o Madan Lal, 14/262, D.P. Extn., New Delhi-110062	22-09-80	-do-	—	22-9-80 to 4-4-86—950
85.	Dhan Pal Singh s/o Hargulal Singh, New Tata Nagar, Mahilpur Dairy, N. Delhi-37.	12-9-79	-do-	—	12-9-79 to 1986-690 days
86.	Mahipal Singh s/o Sh. Kishan Lal, F-2/156, Madan Circle, New Delhi.	15-6-76	-do-	—	15-6-76 to 17-3-80 540 days
87.	Ajay Massih, s/o Sh. Massih, A-12/165, 1A Colony, Basant Vihar, New Delhi-57.	13-3-01	-do-	—	13-3-81 to 1986-950
88.	Joginder Kumar s/o Shri Puran Chand, WZ-29, Raj Nagar, Palam Colony, New Delhi-45.	1983	-do-	—	1981 to 1985-950 days
89.	Subhash s/o Sh. Ram Swaroop, V. & P.O. Badli, Banjara Basti, Near Railway Patak, N. Delhi-42.	1983	-do-	—	1980 to 1985 1170
90.	Dhan Pat s/o Nihal Chand 23, P.O. Hauj Khas, New Delhi-16.	19-4-80	-do-	—	19-3-80 to 9-1-86—1060
91.	Nand Kishore, s/o Sh. Kishan Lal, Nangal Dairy, Gurgaon Road, New Delhi-37.	13-9-80	-do-	—	13-9-80 to still working 1060 days
92.	Jag Pal s/o Sh. Bhagmal C-40, Siddharata Basti, P.O. Jangpura, New Delhi-14.	12-8-80	-do-	—	12-8-80 to still working 1060 days
93.	Parkash Chand s/o late Sh. Puran Singh, Vill. & P.O. Kapashera, Gurgaon, Road, New Delhi-37.	1981	-do-	—	1981 to 1986—440
94.	Krishan Gopal Tiwari s/o Shri K.L. Tiwari R-S 7/20, J-118, Puran Nagar, Palam Colony, New Delhi-45.	1982	-do-	—	1982 to 1986 still working 880
95.	O.P. Sharma s/o Shri Rattan Singh Sharma H.No.557-A/8, New Colony, Gurgaon Distt. Gurgaon (Haryana)	4-12-80	Loader/Cleaner/ Peon	—	4-12-80 to 1986-1170
96.	Surinder Singh Sharma s/o Sh. Bhagwan Dass Sharma, 224/18, Hari Nagar, Laxmi Garden, Gurgaon, Haryana.	17-2-81	Store Keeper	—	17-2-81 to 1986—770
97.	Sushil Kumar Verma s/o Sh. Chander Mool Verma, H.No.159, S.P. Mookerjee Park, Tilak Nagar New Delhi-18.	17-4-84	Catering Asstt.	—	17-4-84 to 1986—440
98.	Jagdish Prashad s/o Sh. Badani, G-11, 284, Madangiri, New Delhi-62.	1979	1979	1985	Total days 1020
99.	Umed Singh s/o Sh. Malkan Singh, RZ-12/2 Puran Nagar, Main Road, Palam Colony, New Delhi-45	1980	1980	1986	Total days 1016
100.	Digamber Singh s/o Sh. Karan Singh, 8950, 14/B, Shidipura, Karol Bagh, New Delhi-5.	1980	1980	1985	Total days 730
101.	Jai Parkash s/o Sh. Raghubir Singh, H.No. 172, Kapashera, New Delhi-37.	1980	1980	1986	Total days 1060
102.	Shanti Devi w/o Shri Lali Mithan Lal, N. Tatanagar, Mahipal Pur Dairy, N.D.-37.	1984	1984	1985	Total days 220

का.भा. 1320 :-- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रायः एण्ड नेचुरल गैस कमीशन के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गोहाटी के पंचपट को प्रकाशित करती है जो कि केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Industrial Tribunal, Guwahati as shown in the Annexure in the industrial dispute between the employers in relation to the management of Oil and Natural Gas Commission and their workmen, which was received by the Central Government.

#### ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI, ASSAM  
Reference No. 1(c) of 1989

#### PRESENT :

Shri D. N. Hazarika,  
Presiding Officer,  
Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between :

The management of Oil and Natural Gas Commission,  
Eastern Region, Dhansiri Valley Project, Jorhat.

#### AND

Their workmen represented by the Secretary, D.V.P. Oil  
and Natural Gas Commission Workers Association,  
Jorhat, P.O. Jorhat.

#### APPEARANCES :

Shri D. Talukdar, Advocate : For the Management.  
Shri G. N. Sahwalla, Advocate and Shri N. Choudhury,  
Advocate : For the Union.

#### AWARD

This Reference arising out of the Central Government Notification No. L-30011/27/88-D-III(B), dated 23-12-88 relates to the dispute indicated in the schedule below :

"Whether the action of the management of Oil and Natural Gas Commission, Dhansiri Valley Project, Eastern Regional Business Centre, Jorhat in not regularising the services of 264 casual labourers engaged in different sections of the Project is justified. If not, what relief the concerned workmen are entitled to?"

On receipt of the notification the reference was registered and notices were issued to the parties to file their written statements. Union filed their written statement and additional written statement. Management also filed their written statement. In course of hearing union examined two witnesses. Management also examined only one witness.

Learned counsel for management Talukdar argued that all the concerned workmen of this reference are only contractual labourers. They were never employed by management O.N.G.C. Dhansiri Valley Project. These workers worked under a contractor in whose name different work orders were issued from time to time by management. Payment has been made through the contractor. According to him contractor submits the bill for payment and management accordingly pays the bill to the contractor, management never pays directly to these workmen. He further contended that as these workers are not casual workers as defined in the Act itself, question of regularisation of their services does not arise and they are not entitled to any relief.

Learned counsel for the union submitted that workmen are all casual labourers serving in O.N.G.C., Dhansiri Valley Project for long time. At no point of time these workers served

as contractual labourers. According to him, these workers served the management for all these years to the full satisfaction of the management. Union workers of Dhansiri Valley Project after serving as casual workers for many years, put up demand for regularisation of their services. Management to nullify the demand of the workers started giving contract orders in the name of one of the workers just to show that all union member (concerned workmen) are contractual labourers only, according to learned counsel of the union.

From the above argument it is clear, that main question to be decided is whether concerned workmen are casual labourers or contractual labourers.

According to counsel for management no appointment letter has been issued to any of the concerned workmen by the management except in two cases. This fact is admitted by union.

Management denies that concerned workmen are not employees of O.N.G.C., Dhansiri Valley Project as no appointment letter was issued to any one of them. But as defined in section 2(s) Industrial Disputes Act, "workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical operational, clerical or supervisory work for hire or reward whether the terms of employment be express or implied ...".

This definition clearly shows no formal appointment letter is necessary.

Even implied consent is sufficient if all other conditions are fulfilled. In the instant case, to determine whether concerned workmen are casual labourers as claimed by union or not, the question whether there exist the relationship of master and servant is to be determined first. If there exist the relationship of master and servant, then concerned workmen are all employees of O.N.G.C., Dhansiri Valley Project.

Union witness stated that management fully controls and directs all concerned workmen to perform different duties at different places. He further stated that management even transferred some of the concerned workmen from one department to another department. Ex. 8 is such a transfer order issued by management. M. Ciring Phookan was transferred from D.A.S. (1) department to D.A.S. (3) department.

According to this witness management controls and directs what, when and how a particular work is to be done by the concerned workman. Management supplies all necessary tools and materials to concerned workmen for execution of their respective assigned duties. He further stated management decides the mode of payment and daily wages of each employee. Management has not denied these facts. From the above evidence I find O.N.G.C. management (D.V.P.) has full control over all the concerned workmen. All workmen is to perform and execute his assigned duties according to the direction of the management.

Management which has full control over all workmen including power of transfer and supplies all necessary tools and materials to the concerned workman proves existence of master-servant relationship. In view of this relationship I find management D.V.P. (Jorhat) is the employer and concerned workmen are all employee of O.N.G.C., Dhansiri Valley Project, Jorhat.

Management filed some documents which are exhibited as Exhibit-B series. Ex. B(1) to Ex. B(10) and Ex. C series (Ex. C-1) to Ex. C(3). According to management Ex. B series are different work orders issued to different contractors at different times. Ex. C series are the bills submitted by different contractors for payment of wages to the concerned workman.

Likewise Ex. D and Ex. E series are different bills submitted by contractors and payment order/voucher issued by management against those bills.

Learned counsel for management contended that these exhibits are sufficient to prove that concerned workman are contractual labourers engaged by different contractors at different times.

Learned counsel for union argued that this practice of ensuring contract order in the name of one of the workmen was introduced by management after union demanded for regularisation of their services and threatened to go on strike. According to learned counsel work on Dhansiri Valley Project was started before 1980. At first Headquarters of D.V.P. was in Dimapur and later on it was shifted to Jorhat for smooth running of the project. Some of the concerned workmen are working since the inception of the project.

Management has admitted establishment of this Dhansiri Valley Project way back in 1982 with its headquarters at Dimapur. Management further admitted that headquarters of D.V.P. has been transferred to Jorhat from Dimapur. Management has failed to submit any work order issued to any contractor before the date of demand made by union for regularisation of their services.

Ex. 5 and Ex. 6 shows that Dhansiri Valley Project started functioning in the year 1981 and appointment letter Ex. 5 and 6 were issued to two of the concerned workmen i.e. Gejen Murmur and Prabin Sonoway.

Hence the argument advanced by management that Dhansiri Valley Project started functioning in 1982 fall through and further I find all the concerned workmen are not contractual labourers as claimed by the management. Further more I find no work order was issued prior to the demand raised by union for regularisation of their services.

Counsel for union argued that in O.N.G.C. establishment there is no provision for contractual labour. According to him there are only two types of contingent employees in O.N.G.C. In support of his claim he pointed out clause 2 of certified standing orders for contingent employees of O.N.G.C. As per provision of said clause there are only two types of contingent employees e.g. (1) Temporary and (2) Casual.

He further argued that wages of the concerned workman is paid as per provision of A.19.1 of Book of delegated powers of O.N.G.C. This provision is for engagement of casual labour as and when required and payment of their daily wages.

Management witness L. Kochari admitted in cross-examination that payment of wages of all the concerned workman is made under clause A.19.1 of Book of delegated powers. This witness further stated that though payment is made as per clause A.19.1 of B.D.P. management considers all the workmen as contractual labourers. Exhibit D(2) and Ex. E(2) issued by management shows that payment has been made to casual labourers. These exhibits clearly proves management makes payment to casual labourers and not to any contractual hand (workman).

Management witness in his cross-examination started that management has not obtained any licence for employing contractual labourer as per provisions of Contract Labour (Regulation and Abolition) Act, 1970. He further argued that persons to whom work order has been issued are not licensed to act as contractor as per provisions of Contract Labour (Regulation and Abolition) Act, 1970. Therefore contention of the management that work order have been issued to contractors is not true. This fact further finds support in the work order Ex B series. Work order has been issued to person who are not legally entitled to be a contractor. So the fact of issue of work order to contractor and payment to contractual labour fall through.

Learned counsel for the management argued that Dhansiri Valley Project is not a permanent project. Once drilling is complete, this project will not require many hands because Oil will be pumped out mechanically from the wells where Oil is struck. Hence this project cannot be termed as permanent industry. It is true when drilling operation is going on in a certain project more hands are required than when such drilling is complete. Only because less number of hands will be required in future in a certain project, it cannot be termed as temporary project. According to union counsel, D.V.P. has started construction of one Oil town near Jorhat which will be future headquarters of Dhansiri Valley Project. Ex. 13 is the site plan and map of the said Oil town near Jorhat.

This shows this Dhansiri Valley Project is not a temporary project as contended by learned counsel for management.

From the above facts and circumstances I find master and servant relationship exists between the management of D.V.P. (O.N.G.C.) and the concerned workman. Therefore I find concerned workmen are all employees of D.V.P. (O.N.G.C.) Jorhat and they are not contractual labourers.

Management in their preliminary written statement dated 27-4-1989 admitted that an industrial dispute exist between the concerned workman and management of D.V.P. Jorhat.

As per definition of Industrial Dispute parties to an industrial dispute are :—

(a) Employers and Employers

or

(b) Employers and Workmen

or

(c) Workman and Workmen.

In the instant case as per admission of the management present dispute is between Employers and Workmen. Employer is represented by management of O.N.G.C. Dhansiri Valley, Project, Jorhat and workmen are represented by Secretary Dhansiri Valley Project Oil and Natural Gas Commission Workers Association).

From management own admission I find concerned workmen are all employees of O.N.G.C. Dhansiri Valley Project, Jorhat.

According to management witnesses, these workmen are serving in different capacities in Dhansiri Valley Project, Jorhat since 1983. According to union witness these workmen are serving since 1981. From the evidence of these witnesses it is an established fact that workmen are serving for more than 7 years continuously in different capacities in Dhansiri Valley Project. In view of their continuous service for long years having all the requisite qualifications and experience all the workmen are entitled to regularisation of their services in their respective posts as per clause (2) of certified standing order for contingent employees of the Oil and Natural Gas Commission.

Therefore I find management of O.N.G.C. Dhansiri Valley Project, Jorhat is not justified in not regularising the services of all the concerned workmen.

Services of all the 264 workers are to be regularised by O.N.G.C. Dhansiri Valley Project, Jorhat.

I give this AWARD on this 12th day of March, 1991 at Guwahati under my hand and seal.

D. N. HAZARIKA, Presiding Officer.

[No. L-30011/'7/88-D. III (B)]

का.सा. 1321 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैलाडिला आयरन और प्रोजेक्ट के प्रबन्धन के संबंध निगोत्रकों और उनके कर्मचारियों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो सरकार को प्राप्त हुआ था।

S.O. 1321.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bailadila Iron Ore Project and their workmen, which was received by the Central Government.



BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(211)/197

PARTIES :

Employers in relation to the management of Bailadila Iron Ore Project, Deposit No. 14, P.O. Kirandul, District Bastar (M.P.) and their workman Shri G. Bhimayya, Electrician, Gr. III, represented through the Metal Mine Workers' Union (INTUC), P.O. Kirandul, District Bastar (M.P.).

APPEARANCES :

For Workman ... Shri A. B. Khan.

For Management : Shri R. Menon, Advocate.

INDUSTRY : Iron Ore Mine ... DISTRICT : Bastar (M.P.)

AWARD

Dated, February 28, 1991

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-26012/6/86-D-3(B)/D-2(A), dated 16-10-1987, for adjudication of the following dispute :—

"Whether the action of the General Manager, Bailadila Iron Ore Project, Dep. No. 14, Kirandul in not promoting Shri G. Bhimayya Electrician, Gr. III to Electrician Gr. II along with his juniors S/Shri Baburaja, C. N. Senan, M. C. Das, Kaliya Setty etc. in July, 1977 is fair and justified? If not, to what relief the workman is entitled?"

2. Shri G. Bhimayya, the workman concerned was working as Electrician Grade III since 12-1-1970. The channel of promotion of Electrician Gr. III is to the post of Electrician Gr. II and promotion are made in accordance with the provisions as laid down in the Tripartite Settlement dated 30-10-1971. The necessary qualifications prescribed for promotion to the post of Electrician Gr. II is Middle Class pass or I.T.I. and having a valid statutory certificate.

3. According to the workman, despite the requisite qualifications, the workman was not considered for promotion in the D.P.C. met on 14-2-1977 and his juniors S/Shri Baburaja, C. N. Senan, M. C. Das, Kaliya Setty etc. were promoted to Electrician Gr. II in the year 1977. They were promoted ignoring his claim of promotion and his senior was not considered. He was promoted subsequently. He is, therefore, entitled to be promoted from July, 1977 and be placed above his juniors viz. S/Shri Baburaja, C. N. Senan, M. C. Das, Kaliya Setty etc. with all consequential benefits.

4. Management says that when the D.P.C. held he was not having Electrical Licence i.e. Licence of competency. Therefore he could not be promoted. His case was not ignored. He was not found qualified for the said post. He was subsequently promoted to the post of Electrician Gr. II with effect from 2-1-1989, when the vacancy arose, after production of the requisite qualifications Certificate. His case cannot be considered at this stage. He is not entitled to the alleged seniority. He is to blame himself for this. His case is, therefore, liable to be dismissed.

5. Reference was the issued in this case.

6. Workman has examined himself in support of his case and the management has examined two witnesses, M.W. 1 G.S.R.C. Murty and M.W.2 T. C. Koshy.

7. Workman has proved two documents Ex. W/1 and Ex. W/2, while the management proved seven documents Ex. M/1 to Ex. M/7.

8. Without going into the details of the case documents are self proof of the fact that the case of the workman was not considered because of the non-availability of the requisite certificate which entitles him to the promotion (Certificate Ex. W/1). The certificate shows that he had qualified for the said post in the year July 1976 and the Certificate was issued on 25-9-77. As per Ex. W/2 the workman applied and 1158 GI/91—7

brought to the notice of the management that he has obtained certificate. How the applicant/workman is to be blamed is not understandable because the witnesses for the management did not give particulars of the DPC MW1, G.S.R.C. Murty, who gave particulars of the DPC admits that he does not know exactly as to what certificate the workman was having at the time of DPC. He further says that his case for promotion was considered after seeing the certificate only.

9. This case is a matter of technicality. Workman possessed a certificate. In other words, he was qualified for the promotional post i.e. Electrician Gr. II on the date of the DPC held on 14-2-1977. The only unfortunate part of it was that the workman could not obtain the certificate prior to the date of DPC which was held. In the absence of the certificate the DPC could have considered his case and the result in a sealed cover. Thereafter on receipt of the certificate the management could have conveniently regularised the workman and due promotion should have been given to him maintaining his seniority.

10. There is no bad record of the workman concerned. The only disqualification at the time of DPC was that he could not produce the relevant qualifications certificate which he possessed and was well qualified for the post. This fact should not give so much weight as to disregard his long past service and his seniority.

11. The workman is, therefore, entitled to promotion with effect from July, 1977 in the Cadre of Electrician Grade II along with his juniors S/Shri Baburaja, C. N. Senan, M. C. Das, Kaliya Setty etc. with all consequential benefits including promotion etc. He would, however, not be entitled to difference of wage for the period from the date of promotion till the date of production of the Certificate.

12. Reference is, therefore, answered as follows :—

That the action of the General Manager, Bailadila Iron Ore Project, Dep. No. 14, Kirandul in not promoting Shri G. Bhimayya Electrician Gr. III to Electrician Gr. II along with his juniors S/Shri Baburaja, C. N. Senan, M. C. Das, Kaliya Setty etc. in July, 1977 is unfair and unjustified. He is entitled to the promotion to the Cadre of Electrician Gr. II with effect from July, 1977 along with his juniors named above with all consequential benefits including promotion etc. except the difference of wages for the period from the date of promotion till the date of production of certificate. No order as to costs.

V. N. SHUKLA, Presiding Officer

[No. 26012/6/86-D-3(B)/D-2(A)]

नई दिल्ली, 18-4-91

का.प्र. 1322.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार ई. मिनरल्स एण्ड मिनरल्स लि. के प्रबन्धकों के संघर्ष निगोजकों और उनके कर्मचारियों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद अधिनियम में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-3-91 को प्राप्त हुआ था।

S.O. 1322.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Minerals and Minerals Ltd. and their workmen, which was received by the Central Government on 25-3-91.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

In the matter of a reference under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 86 of 1989

PARTIES :

Employers in relation to the management of M/s. Minerals and Minerals Limited P.O. Richighuta, District Palamau and their workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

On behalf of the employers : Shri G. Prasad, Advocate.

On behalf of the workman : Shri I. D. Lall, Advocate.

STATE : BIHAR

INDUSTRY : Bauxite Mines.

Dated, Dhanbad, the 15th March, 1991

## AWARD

The present reference arises out of Order No. L-29012/24/89-IR, dated the 2nd August, 1989 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

## SCHEDULE

"Whether the action of the management of M/s. Minerals and Minerals Limited P. O. Richighuta, District Palamau in terminating the services of Shri Mineswar Bhagat (a workman of Mandupet Bauxite Mine) w.e.f. 10-4-89 is justified? If not, what relief is the workman entitled to?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Dispute Act, 1947.

S. K. MITRA, Presiding Officer

[No. L-29012/24/89-IR (Misc.)]

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT

DHANBAD

Reference No. 86 of 1989

Employers in relation to the management of M/s. Minerals and Minerals Ltd., Richiguta :—

AND

Their Workmen

The humble joint petition of compromise on behalf of the parties most respectfully sheweth :—

1. That, the parties have amicably settled the industrial dispute relating to the aforesaid reference on the following terms and conditions :—

(1) That, Shri Mineswar Bhagat, the workman concerned, shall be reinstated as a Mazdoor by the management within 15 days of this joint petition of compromise accepted by the Hon'ble Tribunal;

(2) That, the workman shall not be paid wages or any other benefits for the intervening period between the date of dismissal and reinstatement.

(3) That, the workman shall be paid the same wages as are payable to other workmen working in the same category.

(4) That, the workman shall have no other claim whatsoever as against the instant reference.

(5) That, the workman shall maintain good conduct and should be indulgent in any misconduct in future and if it is proved in a domestic enquiry, the management shall have the right to take disciplinary action as may be necessary.

(6) That, the management may transfer him to other establishment, as and when required from time to time, as per provision of the Standing Order.

(7) That, it is agreed that this is an ~~final~~ all agreement settlement and final settlement of all the claims of the workman arising out of the above reference

(8) That, the parties agreed that the settlement is fair, just and proper, and have set their hands after understanding the same.

(9) That, it was also agreed that six copies of this settlement may be filed before the Hon'ble Tribunal and the Tribunal may be prayed to pass an award in terms of the settlement.

It is therefore, prayed that your Lordship may be graciously pleased to accept the settlement and pass an award in terms of the settlement and for this act of kindness the parties shall ever pray.

For the workmen :

Sd/-Muneshwar Bhagat

For the Employers :

Sd/- Illeceble.

Witness Sd/- P. B. Choudhury.

नई दिल्ली, 19 अप्रैल, 1991

का.प्रा 1323.—औद्योगिक विवाद अधिनियम, 1917 (1947 का 14) की धारा 17 के अन्वये में, केन्द्रीय सरकार आयल एण्ड नेचुरल गैस कमीशन के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण तमिलनाडु मद्रास के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 9th April, 1991

S.O. 1323.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Industrial Tribunal, Tamilnadu, Madras as shown in the Annexure in the industrial dispute between the employers in relation to the management of Oil & Natural Gas Commission and their workmen, which was received by the Central Government on.

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU  
MADRAS

Friday, the 28th day of December, 1990

PRESENT :

Thiru M. Gopalaswamy, B.Sc., B.L.,

Industrial Tribunal

Industrial Dispute No. 65 of 1987

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the management of Oil & Natural Gas Commission, Madras-6.

BETWEEN

Shri. A. Mylvagnam,  
No. 17 Srinivasan Street,  
Jaganathapuram, Chetput,  
Madras.

AND

The General Manager,  
Oil & Natural Gas Commission,  
226, Cathedral Road,  
Madras-600006.

REFERENCE :

Order No. L-30012/12/66-D.II(B), dt. 4-6-87 of Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 6th day of November, 1990 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Tvl. S. Ayyathurai and I. Mariaparthaman, Advocates appearing for the workman and of Tvl. K. T. Palpandian and P. Rathnadurai, Advocates appearing for the management and this dispute having stood over till this day for consideration, this Tribunal made the following.

#### AWARD

This dispute between the workman and the management of Oil & Natural Gas Commission, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-30012/12/86-D.III(B), dated 4-6-87 of Ministry of Labour for adjudication of the following issue :

"Whether the action of the management of Oil & Natural Gas Commission, Training & Executive Development Centre, No. 58, Rose Garden, Madras, in terminating the services of the workman Shri A. Pylwagan with effect from 30-7-84 is justified? If not, to what relief the said workman is entitled?"

#### 2. The allegations in the claim statement are as follows :

The Petitioner applied for the post of Draughtsman under the respondent, he was selected for the post of Draughtsman in October, 1982. There was no written order of appointment. Thereafter the petitioner worked under the respondent. He was also given a certificate in August, 83 by the Superintending Geophysicist regarding petitioner's satisfactory work. He was paid Rs. 400 as monthly salary besides overtime wages. However petitioner's service was terminated in July '84 illegally. Then the petitioner requested for reinstatement and hence he was taken back under the respondent in February '85 on a monthly salary was Rs. 600. Unfortunately the petitioner's service was again terminated at the end of September, 1985 without any reason and in violation of law. Petitioner has been removed on the basis of a circular dt. 21-6-85 which advises the respondent to prevent employees like the petitioner from working continuously for 240 days in a year by discharging them. The Petitioner's pleas for reinstatement have failed and the conciliation proceedings started by the Assistant Labour Commissioner (Central), Madras failed. The respondent alleged in the counter filed before the Labour Commissioner that the petitioner was not a regular workman, he was a worker on contract basis and that he was paid wages on the basis of the total output, namely, maps drawn. Petitioner's termination is against Section 25-F of the Industrial Disputes Act. The respondent's action is illegal and unjust since the petitioner has completed service for more than 400 days continuously as on 30-7-1984. Therefore an award may be passed directing the reinstatement of the petitioner with continuity of service and back-wages and all benefits.

#### 3. The Counter Statement runs as follows :—

The Petitioner was not employed as a regular employee by the respondent. The petitioner was never given an order of appointment whether in 1982 or subsequently. Petitioner's services were not terminated by the respondent in July, 1984. It is not true that the petitioner was re-employed in a regular way from February, 1985 onwards. The circular dt. 21-6-85 is irrelevant and section 25-F of the I.D. Act is not applicable to the case of the petitioner. The petitioner has not completed more than 400 days continuously as on 30-7-1984. Person who joined services allegedly as junior to the petitioners have not been confirmed. The petitioner is not a qualified in Draughtsman. He does not hold I.T.I. Certificate. He was given work by the respondent as Tracer on work-charge i.e. contract basis. Whenever the respondent had more than the normal work for short periods petitioner and some other persons were given the work of Drawing Maps, etc. On contract basis, namely, payment of wages according to the volume of work done without giving any status of full time or regular worker. Petitioner was not a regular employee with entitlement to monthly salary

and other benefits under the Service Rules. Petitioner worked on contract basis for certain periods only in 1983, 1984 and 1985. The Petitioner applied for regular employment, i.e. appointment on a regular basis. But he was not selected in the interview because he failed to score required marks and candidates who scored more marks were selected against vacancies to be filled in by Scheduled casts candidates, under the rules. Thus the petitioner was never taken in as a regular employee and therefore this dispute has to be dismissed.

#### 4. Points for determination in this I.D. are :—

- Whether the termination of the service of the petitioner-workman i.e. denial of employment to the petitioner w.e.f. 30-7-1984 justified?
- To what relief the petitioner is entitled.

5. The Petitioner gave evidence as W.W.1. The Superintending Geophysicist Srinivasarungan gave evidence as M.W.1 Ex. W.1 to W-6 and Ex. M.1 to M-61 have been marked.

The Petitioner who belongs to the Scheduled Caste, had actually applied to the respondent for getting a regular employment under Ex. M-40 dated 13-12-83. Even prior to this date the petitioner sought for appointment as Helper Grade-III and he was interviewed on 6-3-84. This is proved by the petitioner's own allegations in Ex. W.1. Following Petitioner's second application he has attended on interview held by the respondent on 26-9-84 vide para-6 of Ex. W-1. But the Petitioner has not been selected as a result of both these interviews because he did not make the grade. The certificate Ex. W-4 and W-5 given to the petitioner by the Superintending Geophysicist speak of the petitioner's good work. They are no proof of the petitioner's employment as a regular workman under the respondent. The Office circular Ex. W-6 gives instructions to the respondent that no worker of a Casual nature should be engaged for more than 90 days continuously and that workers engaged under contracts should not be allowed to complete 180 days of work. This circular does not help the petitioner at all. Ex. M-1 and M-2 relating to the period from November, 1982 to May, 1984 clinchingly proves that the petitioner was only given work of preparing maps on the basis of contracts to complete specific items of Map-work which arose temporarily or as an emergency as distinguished from normal and routine work available in the Department. The petitioner has also signed in all these bills for payment of wages under the contract. Ex. M-21 to M-38 are vouchers showing payment of wages to the petitioner on the basis of contract. The policy of employing workers on contracts is resorted to for coping with work which arises intermittently or for short periods and when such additional work could not be handled by the existing regular staff. Ex. M-42 is a policy note on this aspect. The petitioner has failed to prove that he continuously worked on day to-day basis in any particular year or for the whole period from 1982 to 30-7-84. M.W.1, deposed that the petitioner was given work from 1984, July after a long gap and he was not given any work from August, 1985 because the additional work of an urgent nature was a temporary phenomenon which ended on September, '85. The documents clearly prove that the petitioner was given work of drawing maps, etc. only on the basis of contract under a scheme called work-charged expenditure, sanctioned for clearing urgent work by engaging persons under contracts only. The petitioner has failed to prove that his work even though it falls under the contract was done continuously in any year for 240 days so that the workman can argue at least that contract should be ignored and he should be considered as full time or regular employee. The petitioner did not have any pay scale or monthly paid wage and he did not receive any benefit other than the wages from the respondent in terms of contract only in the entire period. He has admitted in his evidence that 25 drawings were finished by him in a month for which he was paid Rs. 400 only. We cannot imagine that finishing 25 drawings for a price of Rs. 400 was the duty of a regular employee or workman. In two facts of the documents which prove that the petitioner was engaged only on a contract basis to do work of a temporary nature and in the absence of appointment made in terms

of existing service rules framed by the respondent, the petitioner cannot be called a regular employee of the respondent and therefore I hold that Section 25-F of the Industrial Disputes Act is not applicable to the case of the petitioner. When the respondent has not found any work of a surplus and emergent nature on its hand it cannot be compelled to give more and more work to the petitioner. The contract of employment ends when the work specified is finished. I therefore find on Point No. 1 that the petitioner, being bound by the contract is not a workman under the respondent on a regular basis and that he was not terminated from services or removed from services. I find that there is only an expiry of the contract of engagement between the two for doing piece-work and that the petitioner is not entitled to reinstatement. I find on point No. 2, that the petitioner is not entitled to any relief.

(6) In the result, award is passed dismissing the dispute without costs.

Dated, this 20th day of December, 1990.

M. GOPALASWAMY, Presiding Officer

[No. I-30012/12/86-D.III(B)]

#### WITNESSES EXAMINED

For Workman :

W.W.1—Thiru A. Mayilvaganam.

For Management :

M.W.1—Thiru V.R. Srinivasarangan.

#### DOCUMENTS MARKED

For workman :

Ex.W.1/30-10-85— 2 A Petition filed by W.W.1. before the Assistant Labour Commissioner Madras-6. (Xerox copy)

Ex. W.2/31-3-86 Counter filed by the management before the Asst. Labour Commissioner, Madras-6. (,,)

W.3/21-4-86 Conciliation Failure Report (,,)

W.4/30-8-83 Testimonial issued to W.W.1. (,,)

W.5/12-2-85 -do- (,,)

W.6/21-6-85 Office order issued by the management regarding engagement of contingent/casual/workcharge basis. (,,)

For Management :

Ex.M.1/8-11-82 Order authorising direct payment by the Superintendent of Geophysicist Electrologging Section of Management (Xerox copy)

M.2/9-12-82 -do-

Ex.M./3/10-1-83 Order authorising direct payment by the Superintendent of Geophysicist Electro-logging Section of Management (Xerox copy)

M.4/10-1-81 -do-

M.5/3-3-83 -do-

M-6/28-3-83 -do-

M-7/3-5-83 -do- Well Logging Section of Management (Xerox copy)

M-8/2-6-83 -do-

M-9/5-7-83 -do-

M-10/1-8-83 -do-

M-11/1-9-83 -do-

M-12/30-9-83 -do-

M-13/30-10-83 -do-

M-14/30-11-83 -do-

M-15/30-12-83 -do-

M-16/31-1-84 -do-

M-17/29-2-84 -do-

M-18/30-3-84 -do-

M-19/30-4-84 -do-

M-20/30-5-84 -do-

M-21/10-11-82 Voucher for payment of Cash of Rs. 400/- to W.W. 1 for the work done in Geophysicist Electrologging section of the management.

(Xerox copy)

M-22/10-12-82 -do-

M-23/12-1-83 -do-

M-24/10-2-83 Voucher for payment of Cash of Rs. 400/- to W.W.1 for the work done in Logging Section of the management. (Xerox copy)

M-25/8-3-83 -do-

M-26/ 9-3-83 -do- Cash of Rs. 450/- -do-

24-4-83

M-27/4-5-83 Voucher for payment of cash of Rs. 400/- to W.W. 1 for the work done in Geophysicist B Logging of the management. (Xerox copy)

M-28/4-6-83 -do-

M-29/5-7-83 -do-

M-30/1-8-83 -do- Geology W.S. Lab -do-

M-31/3-10-83 -do- Geophy Logging -do-

M-32/31-12-83 -do- Cash of Rs. 800/- -do- in Geophy section of the management. (Xerox Copy)

M-33/3-11-83 -do-

M-34/31-1-84 -do- in Geophy Logging Section of the management. (Xerox copy)

M-35/4-6-84 Voucher for payment of cash of Rs.600/- to W.W.1 for the work done Geophysical Section of the Management (Xerox copy)

M-36/1-6-84 -do-

4-6-84

M-37/28-6-84 Voucher for payment of cash of Rs. 500/- to W.W.1. for the work done in Geophysical Services Logging Section of the Management. (Xerox copy)

M-38/30-7-84 Voucher for payment of cash of Rs. 350/- to W.W.1 for the work done in Geophy data Section of the management (,,)

M-39/Series/ 3-5-85 Voucher for payment of cash to W.W.1 for Rs. 600/- each (4 nos.) (,,)

7-6-85

3-7-85

11-9-85

M-40/13-12-83 Application of W.W.1 for the post of Helper/Khalasi in the management (,,)

M-41/— Bio-data of W.W.1. (,,)

M-42/19-12-84 Letter from Deputy Superintending Geologist to the Chief Geologist of the management. (,,)

M-43/30-1-85	Sanction order of the Chief Geologist for incurring an expenditure not exceeding Rs. 4,800/- for contractual assistance to the interpretation Section. (Xerox copy)
M-44/1-3-85	Authority for direct payment of Rs. 600/- to W.W.I. for the work done by him during February 1985 (Xerox copy)
M-45/6-4-85	-do- March, 1985 „
M-46/30-4-85	-do- April, 1985 „
M-47/3-6-85	-do- May, 1985 „
M-48/27-6-85	-do- June, 1985 „
M-49/30-7-85	-do- July, 1985 „
M-50/31-8-85	-do- August, 1985 „
M-51/30-9-85	-do- Sept., 1985 „
M-52/30-6-84	Salary slip of Thiru S. Santhakumar, Assistant Draftsman (Xerox copy)
M-53/—	Oil & Natural Gas Commission (Recruitment & Promotion) Regulations, 1980 and connected instructions.
M-54/4-10-83	Circular issued by the management for interview for selecting suitable departmental candidates for the post of Store-keeper Grade-II, Assistant Technician (Auto-Electrical), Assistant Technician (Electronics) and Assistant Draftsman-cum-Ferro Printer.
M-55/7-5-84	Memorandum issued by the Management to Thiru A. Sokarbabu selecting him for a temporary post of Draftsman-cum-Ferro Printer (Xerox copy)
Ex.H-56/1-6-84	Order of appointment issued to Thiru Sakar Babu for post of Draftsman-cum-Ferro Printer. (Xerox copy)
5-6-84	
M-57/31-10-82	Provisional Certificate issued by Industrial Training Institute, Gudlavalleru, Krishna District to Thiru A. Sekar Baby for having passed All India Trade Test in Draughtsman Civil held in July, 1982. (Xerox copy)
M-58/7-5-84	Memorandum issued by the management to Thiru S. Santhakumar selecting him for a Temporary post of Draftsman-cum-Ferro Printer. (Xerox copy)
M-59 —	National Trade Certificate issued to Thiru S. Santhakumar for having completed the course of Training at Government Industrial Training Institute, Ambattur and passed the trade test in the trade of Draughtsman—Mechanical held on July, 1972. (Xerox copy)
M-60/28-9-81	Office Order issued by the management promoting Thiru S. V. Ramana Rao to the post of Junior Draftsman (Geo-Science) (Xerox copy)
29-9-81	
M-61/30-3-89	Office order issued by the management promoting Thiru S.V. Ramana Rao to the post of Senior Draftsman (Geo-Science) (Xerox copy)

नई दिल्ली, 23 अप्रैल, 1991

का.आ. 1324.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बम्बई पोर्ट ट्रस्ट के प्रबन्धतंत्र के संबंध निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में विनिर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-4-91 को प्राप्त हुआ था।

New Delhi, the 23rd April, 1991

S.O. 1324.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Central Government Industrial Tribunal, Bombay, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bombay Port Trust and their workmen, which was received by the Central Government on 18th April, 1991.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 BOMBAY

(Presiding Officer : Justice S. N. Khatri)

Reference No. CGIT—40 of 1988

## PARTIES :

Employers in relation to the management of Bombay Port Trust

## AND

Their workmen.

## APPEARANCES :

For the Management—Shri Masurkar, Law Officer.

For the Workmen—Shri B. N. Dongre, Advocate.

INDUSTRY : Ports and Docks. STATE : Bombay.  
Bombay, dated 10th April 1991

## AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Dispute Act, 1947 :

“Whether the action of the management of Bombay Port Trust Bombay in first reducing the pay of Mrs. Nita Sharad Pathak, ‘B’ Scale Clerk by three stages for a period of one year and then dismissing her from service w.e.f. 13th February, 1978 was justified. If not, what relief is she entitled to?”

2. Smt. Neeta Sharad Pathak joined the service of the Bombay Port Trust (hereafter, ‘the Management’) as Clerk ‘B’ Scale on 23rd October, 1971. Hereafter I shall refer to this Lady Workman as ‘the LW’. She was on maternity leave from 27th April, 1977 to 16th July, 1977. After the birth of the second child she alleges to have developed back pain, making it impossible to join service on 17th July, 1977 on expiry of her maternity leave. On the recommendation of the Medical Officer of the Management, she remained on leave from 9th August, 1977 to 19th September, 1977. As the pain did not subside, she requested for further leave as her family doctor had advised her complete bed rest. Presumably, because the Management felt that she was malingering, they sent their Medical Officer to her house to verify the truth of her complaint. Eventually on their insistence she appeared before their Medical Board in the first week of February, 1978. The Board recommended her to be first to resume her work. The LW joined her duty on 9th February, 1978 and worked for two days upto 10th February, 1978. She alleges that her pain got further aggravated, with the result that she was forced to stay home thereafter.

3. The grievance of the LW is that the Management were biased against her and after writing her several threatening letters issued a charge-sheet dated 31st May, 1978 on the ground that she had remained absent without leave from 13th February, 1978. She explained that she was unable to attend to her work on account of sickness and also sought extension of leave upto the end of December 1978. The Management did not respond to her request, and the domestic enquiry continued to be proceeded with ex parte. On 30th April, 1979 the Enquiry Officer submitted his report to the Disciplinary Authority—the Chief Medical Officer, holding the charge proved. The Disciplinary Authority issued a show cause notice to the LW. It will be useful to reproduce this rather unusual notice (Appendix 'C' to the Statement of Claim):

"Whereas Smt. Neeta Sharad Pathak, clerk B Scale, Medical Department, was proceeded against departmentally vide this office memo. No. H/E(P-783)/2619 dated 31st May, 1978 and whereas she was found guilty of committing the misconduct of remaining absent without leave for more than 10 days."

2. And whereas it is proposed to reduce her pay by three stages for a period of one year, the said punishment to have effect on her future increments, according to Regulation 8(v) of Bombay Port Trust Employees (CC & A) Regulation, 1976.
3. Smt. N. S. Pathak, Clerk 'B' Scale, Medical Department is further informed that she should resume duty within 7 days of receipt hereof failing which she would be deemed to have abandoned the contract of employment and her name would be struck off the muster roll with effect from 13th February, 1978.
4. Now therefore, I hereby call upon Smt. N. S. Pathak to show cause within a period of 7 days of receipt hereof as to why the proposed punishment (para 2 herein above) should not be imposed upon her failing which the said proposed punishment will be confirmed without any further reference to her."
4. The LW did not comply with the notice. Ultimately by his order dated 2nd June, 1979, the Disciplinary Authority confirmed the punishment of reduction by 3 stages, struck her name off the Rolls with effect from 13th February, 1978 and called upon her to pay Rs. 1722.13 towards 3 months' wages in lieu of notice. I am again reproducing this order verbatim (Ex. D appended to the Statement of Claim):

"With reference to this office show cause memo No. H/E (P-783)/2708 dated 24th May, 1979, Smt. Sharad Pathak, Clerk 'B' Scale, Medical Department, is hereby informed that since she had failed to submit her reply to the said show cause memo, the punishment to reduce her pay by three stages has been confirmed.

2. She is further informed that since she has failed to report for duty as directed in the said show cause memo, she is deemed to have abandoned the contract of employment without tendering resignation with due notice and her name is struck off the muster roll with effect from 13th February, 1978.
3. She is further directed to pay an amount of Rs. 1722.13 (Rupees one thousand seven hundred twenty two and Paise thirteen) only towards 3 months' wages in lieu of notice period in the office of the undersigned."
5. The Challenge of the LW is two-folded. According to her, if the order of termination of her service is treated as a punishment, it suffers from the vice of double punishment for one and same alleged misconduct. On the other hand, if the termination is treated as termination simpliciter, it amounts to retrenchment. In that case it becomes void for non-compliance of the requirements of sections 25-F of the Act. She also complains that the Enquiry Officer was biased against her. She claims reinstatement with full continuity of service and full back wages.
6. The Management resist the claim of the LW in toto. According to them, her continued absence from work clearly amounted to abandonment of her job and as such the impugned order is valid in all respects. They deny her allegation of bias. They pray for rejection of the Reference.

7. The parties did not lead any oral evidence. The documents filed by both are being read in evidence by consent. Shri B. N. Dongre for the LW and Shri Cama for the Management have addressed their submissions to the Tribunal on the basis of the documents.

8. Although the facts are a bit out of the way, the real controversy rests within a narrow amplitude. If the order of termination of service is considered to be penal in nature, naturally it will not stand for a moment, for the simple reason that two punishments cannot be legally awarded simultaneously for one and the same misconduct. In that case, naturally the lesser one may stand, if it is otherwise found to be valid. Shri Cama for the Management urges that the order of termination is not penal in nature. According to him, the impugned action does not amount to retrenchment also within the meaning of section 2(oo) of the Act for two reasons. In the first place, he points out that the consistent conduct of the LW clearly makes out a case of voluntary abandonment of service, which does not amount to termination of service by the Management. In the second place, he submits that at any rate, on her own showing the LW has been keeping bad health, and as such even if the action of the Management is treated as termination of service, it would stand excepted from the sweep of the term retrenchment under clause (c) of section 2(oo). Both learned counsel have cited a number of rulings, some of which will be adverted to in due course. I may however say that I am not impressed by the submissions of Shri Cama.

9. The impugned order read as a whole along with the charge-sheet, in my judgement, amounts to award of both items by way of punishment. On this basis, it would render LW's termination void on three counts. First of all, the removal is with retrospective date, that is to say, 13th February, 1978. There is a direct ruling of a Division Bench of our High Court reported in 1989 II CLR 331 Assaram Dhage Vs. Executive Engineer that services of an employee, be he permanent or temporary, cannot be legally terminated with retrospective effect, and an order purporting to do so is void. The second flaw is that the show cause notice which is reproduced in para 3 supra, calls upon the LW to show cause against the proposed punishment of reduction only, and not against the higher punishment of striking off her name from the Rolls. This renders the termination void. Then as stated above, two punishments could not be simultaneously inflicted for the same misconduct founded on the same set of facts. Obviously, the lesser punishment alone will stand, if it is otherwise held not to suffer from any infirmity. Shri Thombre during the course of his submissions has fairly conceded that in case the LW fails to establish bias, she will not press for setting aside the punishment of reduction by 3 stages. I am holding below in para 15 that this plea is not made out. It means that the lesser punishment will stand, unless the Management make out their case of voluntary abandonment of service by the LW.

10. I go to the second and the crucial aspect pressed by Shri Dongre that the order of striking off the LW's name from the Rolls is bad, because it amounts to retrenchment without complying with section 25F. The first relevant question would be whether this is a case of voluntary abandonment of the job by the LW. Abandonment or relinquishment of service is a question of intention of the Workman and normally such intention cannot be attributed to any employee without adequate evidence in that behalf: 1979 LIC 1290 G. T. Gad Vs. Chemicals and Fibres India Limited (a Supreme Court decision followed by Mrs. Sujata Manohar J. of our High Court in 1988 II CLR 287 Rajendra Prasad Nayak Vs. Arpee Electricals Pvt. Ltd.) In the present case, the correspondence between the parties clearly shows that the LW had all along fought tooth and nail for keeping her job intact, though, according to the Management, she was indulging in malingering. Indeed, not only did she participate in the domestic inquiry through her Advisor Chitnis, but also challenged the impugned order by preferring an appeal against it. So simply because she did not attend to her work after 10th February, 1988, or because some of the letters addressed to her were received back by the Management undelivered, it does not mean that she had the intention to give up the job for ever and never return back to work. It is pertinent to note that when the Central Government refused to refer the dispute for adjudication under section 10 of the Act, she took up the matter to the High Court and obtained a mandamus against the Central Government to make the reference.

All this evidence clearly points to one inference only—namely that she wanted to continue with her job, although there may also be some substance in the Management's apprehension that she was of a malingering disposition. I hold that the LW had never abandoned or relinquished the job. I reject the Management's contention in this behalf.

11. The next obstacle in the way of the Management is that they have not held any inquiry into the question whether the LW had abandoned or relinquished the job, before proceeding to pass the impugned order of termination of her services. It is held by a Divisional Bench of our High Court (Sawant J. as he then was and Vaze J.) in 1988 I CLR 38 Gaurishankar Vs. Eagle Spring Industries Pvt. Ltd. that in case of abandonment of service, the employer must, apart from giving a notice to the Workman calling upon him to resume his duties, hold an enquiry before terminating his services on that ground. In our case, the charge sheet Ex. A no doubt refers to allegations of her continued absence in spite of the Management's several letters to her 'to join work'; but that is entirely in a different context and for a different purpose, namely that thereby she had rendered herself liable to disciplinary action. The inquiry contemplated by Gaurishankar is, obviously with regard to the question of the employee's voluntary abandonment of the job and not with regard to misconduct. So this is also an Important flaw in the procedure adopted by the Management.

12. Having said all this, the question that still stares one in the face is as to under what provisions of Rules etc. Management have authority to terminate the services of an employee on the ground of her abandoning the job, de hors committing any misconduct. No such provisions have been pointed out to me although a pretty long adjournment was taken by the Management for the purpose. A faint reference was made to Regulation 22(2)(e) of the Rules and Regulations for the Non-scheduled staff, 1963, which provides that habitual absence without leave or absence without leave for more than 10 days would amount to 'misconduct'. Apart from the fact whether this provision applies to the present LW who admittedly belongs to the Scheduled category of employees, the provision cannot help the Management for the simple reason that the act amounts to 'misconduct' and not 'abandonment of service on the part of a Workman'. This submission goes against the Management's case.

13. Shri Cania also relied upon a decision of the Supreme Court reported in A.I.R. 1989 Supreme Court 1954 Pvarelal Sharma Vs. Managing Director Jammu and Kashmir for the proposition that unauthorised absence of the LW will amount to her voluntarily abandoning the job and that her services could be terminated by the Management, without attracting the definition of retrenchment as given in section 2(oo) of the Act. The case is distinguishable on facts, in that in the aforesaid case there was a provision in the Rules, enabling the Management to terminate the services of the employee for unauthorised absence after giving him a show cause notice. Here we do not have any provision enabling the Management to do the continued absence of the LW as abandonment of her job.

14. I think it is not necessary for me to dilate further. The evidence on the record shows that the LW was all alone anxious to continue with her job; she never had the intention to abandon it; and that the Management had no power to terminate her services on the ground of her continued absence without recourse to disciplinary action. In case the order is assumed not to be punitive (which is not the case on the facts proved), the Management's action in terminating the LW's employment will amount to retrenchment without the meaning of section 2(oo) of the Act. I may make it clear that the Management have not made the order on the ground of her continued ill-health; indeed their case is that the LW is a malingerer and is in fact in fit health. The Management cannot fall back on exception (c) to section 2(oo). As the obligatory requisites of section 25-F have not been followed, the order would be void ab initio, even if it is assumed not to be penal.

15. The next question is whether the Management or the Enquiry Officer could be said to be biased against the LW. It is difficult to reach such an inference on the material available on the record. The Management have conducted themselves all through fairly albeit with firmness. The punishment by reduction by three stages cannot be said to be harsh.

16. The last question is as to the liability of payment of back wages. There is no suggestion that the LW had sought any alternate employment. She will, therefore, be entitled to full back wages. She is not responsible for the delay in getting the reference made to the Tribunal. The Management did not cooperate in the conciliation proceedings. The Government declined to make the reference in the first instance. She had to take recourse to the High Court to get Mandamus against them. She is entitled to get full back wages and Rs. 2000 by way of token costs. I make the following Award.

The action of the Management in terminating the workman's services with effect from 13th February, 1978 and calling up on her to pay Rs. 1722.13 is held to be illegal and unjustified. The impugned order is set aside to this extent. The first part of the order reducing her pay by three stages for one year stands confirmed. She is directed to be reinstated in service with full back wages. The back wages shall be paid to her within 2 months of the publication of the Award. In case any portion of the dues remain unpaid, the same shall carry interest @ 12% p.a. from the date of default till repayment. The Management shall pay Rs. 2000 to her by way of costs and bear their own. Award accordingly.

S. N. KHATRI, Presiding Officer

[No. L-31012/3/82-D.IV(A)/D.III(B)]

का.प्र. 1325-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने, बर्न स्टैंडर्ड कम्पनी लि. के प्रबन्धन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, प्रत्यक्ष में विनिश्चित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 1225.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947, the Central Government hereby publishes the following award of the Industrial Tribunal, Tamilnadu, Madras, as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Burn Standard Company Ltd., and their workmen, which was received by the Central Government on.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU MADRAS

Thursday, the 27th day of December, 1990

#### PRESENT :

Thiru M. Gopalaswamy, B.Sc., B.L., Industrial Tribunal.  
Industrial Dispute No. 66 of 1987

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the management of M/s. Burn Standard Company Ltd., Salem).

#### BETWEEN

Shri Perumai Ramasamy PF-5350, Red Hills, Residing  
No. 1, Ayyamparumapally, Salem-5.

#### AND

The Area General Manager, M/s. Burn Standard Company Ltd. Salem-636005.

#### REFERENCE

Order No. L-27012/46/85-D.III (B), dated 3-6-1987 of Ministry of Labour, Government of India.

This dispute coming on for final hearing on Friday, the 14th day of December, 1990 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru M. N. Ravichandran, Advocate, appearing for the workman and of Tvl. T. S. Gopalan, P. Ibrahim Kalifullah, S. Ravindran and Srinivasavaradan Advocates for management and this dispute having stood over till this day for consideration, this Tribunal made the following :



## AWARD

This dispute between the workman and the management of M/s. Burn Standard Company Ltd., Salem arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India, in its Order No. 1-27012-46-85-D.III (B), dated 5-6-87 of Ministry of Labour for adjudication of the following issue :

"Whether the action of the management of M/s. Burn Standard Company Salem in terminating the services of Shri Perumal, S/o Ramaswamy w.e.f. 27-7-84 is justified ? If not, to what relief is the workman entitled ?"

2. The allegations in the claim statement are as follows :—

The petitioner was an un-skilled worker getting consolidated wages at Rs. 750 p.m. under the respondent. Stating that he was responsible for creating forged documents, namely, false encumbrance certificates and gave them to the workers for getting House Loans from the respondent, a charge memo was issued on 4-6-84. The petitioner replied, saying that he was innocent and illiterate as well. A domestic enquiry was commenced on 14-6-84. It was continued on 26-6-84. The enquiry officer gave finding that the charges have been proved. The respondent-management then passed an order terminating services of the petitioner w.e.f. 27-7-1984. The domestic enquiry was conducted in biased and unfair manner without giving opportunity to the petitioner. The petitioner requested the management to reinstate him in service saying that the enquiry was only an empty formality and was unfair. Then the petitioner launched conciliation proceedings which failed.

Principles of natural justice were flouted. Thus the domestic enquiry is vitiated. The charges are vague. There is no proof that the document were forged by anybody. Presenting Officer himself turned out to be a witness for the management at the domestic enquiry. They have exploited the petitioner's ignorance and illiteracy. There was no worthwhile evidence to support enquiry officer's findings. The petitioner was not given copies of records on which the management relied as evidence at the domestic enquiry. Thus the domestic enquiry is illegal and findings are perverse. Therefore the order of termination deserve to be set aside. An award may be passed accordingly for reinstating the petitioner in service.

3. The Counter Statement runs as follows :—

The respondent is owned by Government of India. It has a magnesite mine and a factory at Salem. There are 2,400 employees in both the divisions. The petitioner was a worker in the mines division. The respondent is having its own Provident Fund Scheme. Under the rules, respondent is granting non-refundable loan for Building of House or purchasing house-site from the Provident Fund amount, standing to credit of a member-worker. In February, 1984, 21 employees-members applied for such loans supported by documents. They did not get their loans for more than 3 months. 19 out of them complained in May, 1984 about the delay in granting loans. Then the management made an enquiry as to why the loans were not granted. At that time it was found that encumbrance certificates produced by 12 applicants alongwith their applications for loan were found missing and they have been removed from the files and also that another 12 employees had presented loan application with support of removed encumbrance certificates. In the fresh set of application, encumbrance certificates which were removed from other applications have been used by erasure of the names and substituting fresh names of the new applicants. These 12 employees who have produced forged encumbrance certificates were charge sheeted and enquiries held against them. All these 12 employees cum-applicants for loans told that the false encumbrance Certificates were given to them only by this petitioner on each one paying Rs. 200 to the petitioner as price. All the 12 employees, who have used forged encumbrance certificates were found guilty

and were punished with suspension from work for 4 days. One Theppan who was working under the respondent in Tappal section for carrying Tappals from mines to Office, removed the encumbrance certificates from applications kept in the office and gave them to the petitioner for being abused as it was latter found out.

Therefore a charge memo was given to the petitioner on 4-6-84 alleging that the petitioner forged encumbrance certificates for being used in loan applications of the 12 employees. After the petitioner gave his reply a domestic enquiry was conducted. Witnesses Dasan Ponnian and Elumalai Kandasamy gave evidence at the domestic enquiry for proving the charges. Above mentioned Theppan and other witnesses were examined by the petitioner as defence witnesses. The enquiry officer gave a report of his findings on 26-6-84, holding the charges were proved. Then the petitioner was served with second show cause notice and finally the order of dismissal was issued. The petitioner's case was conducted at the domestic enquiry by one Ramiappan, Trade Union Official. Full opportunity has been given to the petitioner. All Principles of natural justice have been followed in the domestic enquiry. The findings given by the Enquiry Officer are valid and proper punishment has been given to the petitioner considering the gravity of the charges.

4. Points for determination are as follows :—

(i) Whether the domestic enquiry held is fair and proper ?

(ii) Whether the action of the management of M/s. Burn Standard Company, Salem in terminating the services of Shri Perumal, S/o Ramaswamy w.e.f. 27-7-84 is justified ? If not, to what relief is the workman entitled ?

5. On both sides no oral evidence was given. Ex. W-1 to W-11 and Ex. M-1 to M-78 have been marked.

I have carefully perused the management documents. The petitioner has been assisted by one Samiappan, who is an official of AITUC affiliated Trade Union of Workers employed by the respondent. Ex. W-5 proceedings of domestic enquiry officer, show that the petitioner-Perumal Ramasamy has been given full and ample opportunity to meet the case against him. His assistant Samiappan has tried his best to bringout the truth. The questioned encumbrance certificates attached to the loan applications have been given to Samiappan by the petitioner himself and the same was produced by Ramaappan direct to the enquiry officer as recorded in the 1st and 2nd Pages of Ex. W-5. To question put by Enquiry Officer, petitioner-Perumal Ramasamy the delinquent told that he has taken the questioned documents from Theppan who is another employee under the respondent working in the Tappal Section. This Tappal section employee Theppan has also been examined as a witness by the petitioner himself on his side. The evidence of not only the witnesses called by the management, but also the testimony of the defence witnesses do prove that the petitioner forged these encumbrance certificates by substituting names after erasing the original names and that he has given them to 12 employees-applicants for using them to get loans. I have no hesitation in holding the evidence of Dasan Ponnian and Elumalai Kandasamy who gave evidence for proving the charges are enough to prove that they got the bogus encumbrance certificates only from the petitioner and no one else. The domestic enquiry officer has not committed any error in believing the evidence of Dasan Ponnian and Elumalai Kandasamy who are just 2 of the 12 applicants who had used the forged encumbrance certificates, have stated before the domestic enquiry officer that they received it only from the petitioner Perumal Ramasamy and there have no motive to allege anything falsely against the petitioner. No one can rejected their evidence as unbelievable.

6. The arguments pressed before me that the domestic enquiry has been conducted in an unfairway by a prejudiced officer and that the petitioner was not given fair opportunity is totally unacceptable. In fact there were ten more applicants who were given false encumbrance certificates by petitioner. But the management did not put up separate charges against the petitioner on all these 10 encumbrance



certificates but confined the charges to only the cases of Dasan Ponnian and Elumalai Kandasamy, that is, by limiting the charges to the transactions involving them and the petitioner. I therefore find that the domestic enquiry conducted is fair and valid, giving full opportunity to the petitioner. I answer Point No. 1 accordingly. On the question of punishment, I do not find any reasons to show mercy to the petitioner by holding that the petitioner should have been dealt with a minor punishment. Terminating services of the petitioner cannot be said to be unwarranted punishment, whom the charge is that of committing forgery with a view to using forged documents by enabling certain employees to seek loans from the management. I therefore find on Point No. 2 that the findings as well as the punishment are fit to be sustained and do not suffer from any defect. The petitioner is not entitled to any relief.

(7) In the result, award is passed dismissing the dispute without costs.

Dated, this 27th day of December, 1990.

(Sd.)

M. GOPALASWAMY, Presiding Officer  
[No. L-27012/46/85-D. III(B)]

S. S. Parashar, Under Secy.

#### WITNESSES EXAMINED

For Both sides : None

#### DOCUMENTS MARKED

For Workman :

Ex.W-1/4-6-84 Chargesheet issued to the workman (Xerox copy)  
W-2/9-6-84 Reply by the workman to Ex. W-1 (..)  
W-3/12-6-84 Enquiry Notice (..)  
W-4/ Memo for altering the enquiry proceedings (..)  
W-5/- Proceedings of the Enquiry Officer (..)  
W-6/26-6-84 Findings of the Enquiry Officer (copy)  
W-7/26-7-84 Dismissal order issued to the workman (..)  
W-8/10-10-84-2-A Petition filed before the conciliation Officer (Central) Madras by the workman. (copy)  
W-9/6-12-84 Comments offered by the Management before the Assistant Labour Commissioner (Central) Madras. (Copy)  
W-10/3-7-85 Conciliation Failure Report (..)  
W-11/5-6-87 Order of reference raised to this Tribunal by the Govt. of India. (Copy)

For Management:

Ex.M-1/series Non-refundable loan application from 21 employees to the management. (Copy)  
M-2/23-5-84 Letter from Thiru K. Ramannan to the Management (..)  
M-3/24-5-84 Representation from 19 employees (..)  
M-4/25-5-84 Letter from Thiru K. Ramamoorthy, Member of Parliament to the management (..)  
M-5/30-5-84 Letter from Thiru K. Mathaiyan to the management (Copy)  
M-6-series Encumbrance Certificates of employees (13 Nos.) (Xerox copy)  
Ex.M-7/23-5-84 Chargesheet issued to Thiru Elumalai Kandasamy. (Copy)  
M-8/- Reply by Thiru Elumalai Kandasamy to Ex.M-7- (..)  
M-9/31-5-84 Enquiry Notice issued to Thiru Elumalai Kandasamy (Copy)  
M-10/4-6-84 Proceedings of the Enquiry Officer (Copy)  
M-11/23-5-84 Chargesheet issued to Thiru S. Muthu (Xerox copy)  
M-12/- Reply by Thiru S. Muthu to Ex. M-11 (..)  
M-13/5-6-84 Enquiry notice issued to Thiru S. Muthu (..)

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M-14/- Proceedings of the Enquiry Officer (Copy)  
M-15/4-8-84 Suspension order issued to Thiru S. Muthu (Xerox copy)  
M-16/21-6-84 Charge sheet issued to Chinnamma Munian (Copy)  
M-17/- Reply by Chinnamma Munian to Ex. M-16 (Xerox copy)  
M-18/6-7-84 Enquiry notice issued to Chinnamma Munian (..)  
M-19/- Proceedings of the enquiry officer (Copy)  
M-20/4-8-84 Suspension order issued to Chinnamma Munian (Xerox copy)  
M-21/23-5-84 Chargesheet issued to Thiru Balaniswami Vellaiyan (Copy)  
M-22/- Reply by Thiru Balaniswami Vellaiyan to Ex. M-21. (Xerox copy),  
M-23/31-5-84 Enquiry Notice to Thiru Balaniswami Vellaiyan (..)  
M-24/- Proceedings of the Enquiry Officer (copy)  
M-25/28-7-84 Suspension order issued to Thiru Balaniswami Vellaiyan (Xerox copy)  
M-26/23-5-84 Charge sheet issued to Perumayee Palaniappan (Copy),  
M-27/- Reply by Perumayee Palaniappan to Ex. M-26 (Xerox copy)  
M-28/5-6-84 Enquiry Notice issued to Perumayee Palaniappan. (..)  
M-29/- Proceedings of the Enquiry Officer (Copy)  
M-30/4-8-84 Suspension order issued to Perumayee Palaniappan (Xerox copy)  
M-31/23-5-84 Chargesheet issued to Thiru Palaniappan Perumal (Copy)  
M-32/7-6-84 Enquiry Notice issued to Thiru Palaniappan Perumal (Xerox copy)  
M-33/- Proceedings of the Enquiry Officer (copy)  
M-34/4-8-84 Suspension order issued to Thiru Palaniappan Perumal (Xerox copy)  
M-35/23-5-84 Chargesheet issued to Thiru Govinda Velliapayan (copy)  
M-36/- Reply by Thiru Govinda Velliapayan to Ex. M-35 (Xerox copy)  
M-37/- Proceedings of the Enquiry Officer (copy)  
M-38/14-8-84 Suspension order issued to Thiru Govinda Velliapayan (Xerox copy)  
M-39/23-5-84 Charge sheet issued to Chinnapponnu Kaveri (Copy)  
Ex.M-40/- Reply to Chinnapponnu Kaveri to Ex. M-39 (Xerox copy)  
M-11/56-684 Enquiry Notice issued to Chinnapponnu Kaveri (..)  
M-42/4-8-84 Suspension order issued to (..)  
M-43/23-5-84 Chargesheet issued to Periyathai Palaniswami (Copy)  
M-44/- Reply by Periyathai Palaniswami to Ex. M-43 (Xerox copy)  
M-45/5-6-84 Enquiry Notice issued to Periyathai Palaniswami (..)  
M-46/- Proceedings of the Enquiry Officer (copy)  
M-47/4-8-84 Suspension order issued to Periyathai Palaniswami (Xerox copy)  
M-48/23-5-84 Chargesheet issued to Thiru Solvaraj Sadayan (Copy)  
M-49/- Reply by Thiru Solvaraj Sadayan to Ex. M-48 (Xerox copy)

नई दिल्ली, 18 अप्रैल, 1991

M-50/31-5-84	Enquiry Notice issued to Thiru Solvaraj Sadayan (Xerox copy)
M-51/-	Proceedings of the Enquiry Officer (copy)
M-52/4-8-84	Suspension order issued to Thiru Solvaraj Sadayan (Xerox copy)
M-53/23-5-84	Chargesheet issued to Thiru Kolandai Sadayan (Copy)
M-54/-	Reply by Thiru Kolandai Sadayan to Ex. M-53 (Xerox copy)
M-55/31-5-84	Enquiry notice issued to Thiru Kolandai Sadayan (,,)
M-56/-	Proceedings of the Enquiry Officer (copy)
M-57/28-7-84	Suspension order issued to Thiru Kolandai Sadayan (Xerox copy)
M-58/23-5-84	Chargesheet issued to Parvathi Kandasamy (copy)
M-59/-	Reply by Parvathi Kandasamy to Ex. M-58 (Xerox copy)
M-60/6-7-84	Enquiry notice issued to Parvathi Kandasamy (Xerox copy)
M-61/-	Proceedings of the enquiry officer (copy)
M-62/4-8-84	Suspension order issued to Parvathi Kandasamy (Xerox copy)
M-63/23-5-84	Chargesheet issued to Thiru Iusan Ponniyan (,,)
M-64/16-8-84	Suspension order issued to Thiru -do- (,,)
M-65/4-6-84	Charge sheet issued to Thiru Perumal Ramasamy (copy)
M-66/9-6-84	Reply by Thiru Perumal Ramasamy to Ex. M-65 (,,)
M-67/11-6-84	Enquiry notice issued to Thiru Perumal Ramasamy (Xerox copy)
M-68/12-6-84	Letter from Management to Thiru Perumal Ramasamy intimating the name of the Presenting Officer and the date of enquiry. (copy)
M-69/-	Proceedings of the Enquiry Officer (,,)
M-70/26-6-84	Findings of -do- (,,)
Ex. M-71/26-6-84	Second show cause notice issued to Thiru Perumal Ramasamy (Copy)
M-72/25-7-84	Reply by Thiru Perumal Ramasamy to Ex. M-71 (,,)
M-75/26-7-84	Dismissal order issued to Thiru Perumal Ramasamy (,,)
M-74/-	Labour Provident Fund Rules & Regulations of the management. (,,)
M-75/-	Explanation by Thiru Dasan Ponniyan to Ex. M-63
M-76/31-5-84	Enquiry notice issued to Thiru Desan Ponniyan
M-77/4-6-84	Proceedings of th Enquiry Officer.
M-78/-	Enquiry Findings.

(Sd.)

M. Gopala Swamy, Presiding Officer

का.भा. 1326.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड वेस्टर्न बैंक लि., के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, प्रमुख में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-91 को प्राप्त हुआ था।

New Delhi, the 18th April, 1991

S.O. 1326.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of United Western Bank Ltd. and their workmen, which was received by the Central Government on 16-4-1991.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, BOMBAY

(Presiding Officer—Justice S. N. Khatri)  
Reference No. CGIT-40 of 1989

## PARTIES :

Employers in relation to the management of United Western Bank Ltd., Satara

AND

Their Workmen.

## APPEARANCES :

For the Management—Shri N. K. Khasbardar Authorised Representative of the Bank.

For the Workmen—Shri S. G. Marathe Organising Secretary.

INDUSTRY : Banking

STATE : Maharashtra

Bombay, the 9th April, 1991

## AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under Section 10 of the Industrial Disputes Act, 1947.

"Whether the action of the management of the United Western Bank in dismissing Mr. K. M. Advavdakar, Peon of Bhusawal Branch from the services w.e.f. 17-10-86 is legal and justified? If not, to what relief the workman is entitled to?"

2. The Bank had contested the claim. In fact some evidence has also been recorded on merits. However, now the parties have reached an amicable settlement. I have explained the terms thereof to the Workman. He admits the same. The settlement is fair to him and will promote industrial peace. Accordingly I make the following Award in terms of the settlement.

3. The Management shall reinstaate the Workman as a fresh recruit in any of the branches of the Bank on the post of sub-staff as a probationer after he repays the entire dues of the Bank. The Workman and the Union have agreed to forego his past seniority and other service benefits, including back wages. Parties shall bear their costs as incurred. Award accordingly.

S. N. KHATRI, Presiding Officer  
[No. L-12012/49/89-IR (Bank-I)]

का.भा. 1317.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड वेस्टर्न बैंक लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, प्रमुख में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-91 को प्राप्त हुआ था।

S.O. 1327.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of United Western Bank Ltd. and their workmen, which was received by the Central Government on 16-4-1991.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 BOMBAY

(Presiding Officer—Justice S. N. Khatri)

Reference No. CGIT-76 of 1990

## PARTIES :

Employers in relation to the Management of United Western Bank Ltd.,

## AND

Their workmen.

## APPEARANCES :

For the Management—Shri N. K. Khasbardar Authorised Representative.

For the Workmen—Shri S. G. Marathe Organising Secretary.

INDUSTRY : Banking STATE : Maharashtra  
Bombay, the 9th April, 1991

## AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under Section 10 of the Industrial Disputes Act, 1947 :

“Whether the action of the management of the United Western Bank Ltd. in terminating the services of Mr. A. G. Lalit, Clerk of Bombay Fort Branch w.e.f. 28th September, 1989 is legal and justified? If not, to what relief the workman is entitled to?”

2. The parties have amicably settled the dispute, the Management has agreed to reinstate the workman in service of the Bank in any of its branches. The Workman will be entitled to receive wages at the basic pay of Rs. 2,860. His next increment will be released after one year from the date of his reinstatement. He has given up his claim to back wages. I have explained these terms to the Workman. He admits the same. The settlement is fair to him and will promote industrial peace. I accordingly make this Award in the aforesaid terms. No Orders as to Costs. Award accordingly.

S. N. KHATRI, Presiding Officer  
[No. L-12012/211/90/IR-(B-III)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 23 अप्रैल, 1991

का.प्र. 1328—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 67 के प्रसंग में, केन्द्रीय सरकार, पंजाब नेशनल बैंक के प्रबंधन से संबंधित विवादों और उनके कर्मचारियों के बीच, प्रमुख में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद सं. 1 के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-4-91 को प्राप्त हुआ था।

New Delhi, the 23rd April, 1991

S.O. 1328.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 15-4-91.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1 AT DHANBAD

In the matter of a reference under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 38 of 1990

## PARTIES :

Employers in relation to the management of Punjab National Bank, Darbhanga and their workmen.

## PRESENT :

Shri S. K. Mitra, Presiding Officer.

## APPEARANCES :

On behalf of the employers—Shri Manoj Kumar Ray, Personnel Officer.

On behalf of the workmen—Shri Promod Kumar Sinha, General Secretary, Punjab National Bank Staff Union.

STATE : Bihar.

INDUSTRY : Banking.

Dated, Dhanbad, the 8th April, 1991

## AWARD

By Order No. L-12012/243/89-D-2-A, dated, the 14th February, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-k) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Punjab National Bank, Madhubani branch in not promoting Sri Bachu Jha even after passing written test/interview is justified? If not, to what relief the workman is entitled?”

2. The case of the management of Punjab National Bank, Regional Office, Darbhanga, as disclosed in the W.S. submitted, details apart is as follows :—

Punjab National Bank is one of the Banks, nationalised under Banking Companies (Acquisition & Transfer of undertaking) Act, 1970 and is fully owned by the Govt. of India. The Bank, in accordance with Section 19 of the Act referred to above, is to frame the service conditions of employees in consultation with the Reserve Bank of India with previous sanction of the Central Government. In view of the statutory provisions, the Bank is implementing the guidelines issued by the Government of India in various matters affecting the service conditions of employees. In the matter of educational qualifications prescribed for appointment or for promotion etc. the Bank is following directions/clarifications etc. issued by the Central Government. Promotion of employees placed in the subordinate cadre of the Bank is governed by the settlement entered into between AIPNBEF and Bank dated 1-7-83. In terms of the above settlement, Personnel division of the Bank issued a circular No. 1066 dated 25-11-87 prescribing therein the minimum eligibility criteria for the promotion test. The concerned workman was allowed to appear in the written test and interview in terms of the circular mentioned above and also on the basis of letter dated 5-6-86 of the Bihar Govt. wherein it has been stated that Pravesika examination conducted by Hindi Vidyapith would be treated equivalent to Matriculation examination read with notification dated 21-6-83. The matter was taken up by the Bank with the Ministry of Education, Govt. of India who by their letter dated 28-6-87 advised their recognition of examination conducted by the Hindi Vidyapith. Deoghar has been accorded with regard to the standard of Hindi prescribed in the equivalent Hindi examination and not to be treated as equivalent to full fledged degree/certificate of the examination to which it has been treated as equivalent. The matter was also taken up with Akhil Bharatiya Hindi Sanstha Sangh. New Delhi and the Sanstha Sangh informed by their letter dated 29-6-87 that Hindi examination Pravesika Sahitya Sandhar and Sahitya Alankar conducted by Hindi Vidyapith, Deoghar are recognised by Ministry of Education, Govern-

ment only in regard to the standard of Hindi prescribed in the examination of Matric, inter and B.A. respectively. In the circumstances the management has submitted that the concerned workman is not eligible for promotion from sub-staff cadre to clerical cadre as he was not in possession of requisite educational qualification from recognised institution. The management has further contended that the dispute has not been validly espoused under the provision of I.D. Act and since there exists no industrial dispute as defined in the I.D. Act, this Tribunal has got no jurisdiction to decide the present industrial dispute.

3. The case of the concerned workman as appearing from the Written Statement submitted on his behalf by the sponsoring Union, Punjab National Bank Staff Union, briefly stated is as follows :—

Punjab National Bank is a Bank incorporated under the Companies (Acquisition and Transfer of Undertakings) Act, 1970 having its Head Office at 7, Vikaji Chandra Place, New Delhi and Zonal Office at R—block, Chhatrapati Place, Patna. The Bank has its regional office at Darbhanga for exercising proper administrative control over branches under its jurisdiction and manning of personnel etc. The Regional Manager is the administrative head of the regional office at Darbhanga and he exercises administrative authority and control in respect of promotion from sub-staff cadre to clerical cadre within the region strictly in terms of Promotion Policy Settlement dated 1-7-83. The Regional Manager cannot act whimsically or arbitrarily or in contravention of the said Promotion Policy Settlement in the matter of giving promotion from sub-staff cadre to clerical cadre. In terms of the Promotion Policy agreement, Head Office of the Bank issued circular to all branches throughout the country advising the eligible sub-staff to apply before the concerned Regional Managers for promotion from sub-staff cadre to clerical cadres. The concerned workman, being eligible for promotion from sub-staff cadre to Clerical cadre in terms of Promotion Policy Settlement dated 1-7-83, applied to the Regional Manager, Darbhanga for promotion in the prescribed form and in the prescribed manner. After scrutinising the papers and his application at the Regional Office at Darbhanga he was asked to appear in the written test on 24-8-86 as per letter issued by the Regional Manager, Darbhanga. He came out successfully in the written test and was asked to appear before the Interview Board on 19-2-87 as per letter dated 5-2-87 issued by the Regional Office, Darbhanga. The Interview Board found him suitable and after selection he was advised to report at Bank's Zonal Training Centre, Patna for attending Induction/Orientation Programme which was meant for newly promoted clerks from subordinate cadre to Clerical Cadre. As per instruction of the Branch Manager, Madhubani Branch he reported to the Zonal Training Centre, Patna and underwent training from 6-4-87 to 18-4-87. During the course of training at Patna he was awarded third position in Self Evaluation examination by the Training Centre authorities of the Bank. After completion of the training programme he reported back to Madhubani Branch wherefrom he was to be given a final letter of promotion mentioning the place of posting as Clerk. All the members of the subordinate cadre who were selected to Clerical cadre were posted as clerks and their promotions were affected with effect from May, 1987, except the concerned workman. The matter was taken up with the Regional Manager, Darbhanga Region, Zonal Manager, Bihar Zone by the union. But nothing came out of such representation. Being aggrieved by the arbitrary, vindictive and mala fide action of the Regional Manager the concerned workman raised an industrial dispute before the Conciliation Officer. But the conciliation ended in failure due to the adamant attitude of the management. In the circumstances, the union has prayed that the employer be directed to promote the concerned workman from Sub-Staff cadre to Clerical Cadre on and from May, 1987 and to pay the salary as par scale with effect from May, 1987 and other reliefs.

4. In rejoinder to the W.S. of the sponsoring union the management has asserted that since it has subsequently come to the knowledge of the Bank that Pravesika Examination is not equivalent to Matriculation, the concerned workman was not promoted to Clerical cadre and the action of the Bank is in conformity with the Govt. directions. Pravesika Examination on the basis of which the concerned workman was allowed

to appear in the written test and interview, is not treated equivalent to Matriculation examination as per Govt. guidelines. Hence the concerned workman is not eligible for promotion and so the question of promoting him does not arise. The Zonal Training Centres are conducting various training programmes for all categories of employees of the Bank for up-dating their knowledge on routine branch work so as to enable them to take higher responsibilities in the Bank. The concerned workman, like other employees was nominated for training for induction/orientation programme meant for promoted/likely to be promoted sub-staff.

5. In the rejoinder to the W.S. of the management the sponsoring union has asserted that Punjab National Bank Staff Union, being a registered trade union representing the employees of the Bank working in the State of Bihar, raised an industrial dispute before the ALCC(C) Patna under the provision of I.D. Act, 1947. Since the conciliation proceeding ended in failure, the appropriate Govt. was pleased to refer the matter to this Tribunal for adjudication and this Tribunal has got jurisdiction to deal with the dispute. The concerned workman was allowed to appear in the written test on the basis of his eligibility for promotion to clerical cadre as defined in the Promotion Policy Settlement mentioned in the Bank's circular dated 6-7-83. In terms of the Promotion Policy of the Bank only Matriculates are allowed to work on clerical cadre in case of absence of clerks and since the Bank recognised the educational qualification of the concerned workman as equivalent to Matric he was allowed to work in place of clerk (officiating) and for that matter officiating allowance was paid to him. The Bank recognised Hindi Vidyapith (Deoghar) examination as equivalent to Matriculation by issuing circular from Bank's Regional Office, Patna on 14-9-83. The contention of the management that training programme are organised for updating the knowledge of the persons for routine work, in the instant case, is misleading. The Training programme No. 12/87 organised by the Bank from 6-4-87 to 18-4-87 was exclusively meant for the subordinate staff who have been declared successful for promotion to clerical cadre. This position will be evident from Bank's Zonal Training Centre, Patna letter dated 18-4-87. The contention of the Bank that the concerned workman was wrongly permitted to appear in the written test and interview is totally incorrect. In the list of successful candidates as mentioned in Bank's Zonal Training Centre letter dated 18-4-87 there appear the names of S/Shri Krishna Murari Prasad (Sl. No.3), of Patna 'A' Region, Ram Chandra (Sl. No. 9) of Patna 'B' Region and Bhabananda Jha (Sl. No. 23) of Muzaffarpur Region besides the concerned workman. All these persons held exactly equal educational qualification after passing the examination from Hindi Vidyapith (Deoghar). All these persons including the concerned workman were selected by the Bank for promotion to Clerical Cadre through one and same procedure of test. S/Shri Krishna Murari Prasad, Ram Chandra, Bhabanand Jha and the concerned workman were empanelled for promotion at a time. S/Shri Krishna Murari Prasad, Ram Chandra and Bhabanand Jha have been promoted to Clerical Cadre by the Bank. All of them were holding Hindi Vidyapith (Deoghar) certificate as equivalent to Matriculation. Had it been the case that the Bank does not recognise this certificate as equivalent to Matriculation, then these persons would not have been allowed to promote to clerical cadre. The action of the management is arbitrary, vindictive and mala fide as it has denied promotion to the concerned workman and at the same time allowed promotion to S/Shri Krishna Murari Prasad, Ramchandra and Bhabanand Jha although all these 4 persons are having equal academic qualification.

6. In further comments to the rejoinder of the sponsoring union the management has asserted that Pravesika examination conducted by the Hindi Vidyapith Deoghar is not equivalent to Matriculation examination. The management has further asserted that the case of the concerned workman is not comparable to anyone of the 3 persons named by the union. Since the concerned workman was ineligible for promotion to Clerical cadre, he was not promoted and the decision of the Hon'ble Patna High Court in Writ Petition No. 118 and 119 of 1988 is settler in the matter.

7. The management, in order to justify its action has laid in evidence a sheaf of documents which have been marked Ext M-1 to M-9. The management, however has not adduced any oral evidence. On the other hand the sponsoring union

has examined WW-1 Krishna Murari Prasad, one witness and laid in evidence some documents which have been marked Ext. W-1 to W-3.

8. Admittedly, Punjab National Bank is one of the Banks nationalised under the Banking Companies (Acquisition and transfer of undertakings) Act, 1970. There is also no dispute that the Bank has been implementing the guideline issued by the Govt. of India in various matters including the service conditions of the employees and that the Bank has been following the directions/clarification issued by the Central Govt. in the matter of educational qualifications prescribed for appointment/promotion of the employees of the Bank.

It is the irrefragible position that the promotion of the employees placed in the subordinate cadre of Bank is governed by the settlement entered into between AIPNBEF and Bank dated 1-7-83. In terms of the above settlement the Bank issued circular No. 714 dated 6-7-83 marked Ext. M-2 prescribing therein the following minimum eligibility criteria for promotion from subordinate cadre to clerical cadre and fitment of salary on promotion and related matters:—

#### “1.1 ELIGIBILITY CRITERIA FOR PROMOTION

1.1.1: Those workman in subordinate cadre who are Graduates of a recognised University/Board and are designated either as Peons or Cash Peons or Head Peons or Daftries or Bill Collectors or are having composite designations like, Peon-cum-Daftries or Peon-cum-Bill Collectors or Daftry-cum-Bill Collectors etc. shall be eligible for promotion to the clerical cadre without any minimum qualifying period of service.

1.1.2: Those workmen in subordinate cadre who are designated either as Peons or Cash Peons or Head Peons or Daftries or Bill Collectors or are having composite designation like Peon-cum-Daftries or Peon-cum-Bill Collectors or Daftry-cum-Bill Collectors etc. and have either passed Matriculation or Higher Secondary or equivalent examination in first class or have passed intermediate or 10+2 Higher Secondary or Pre-University or equivalent examination shall be eligible for promotion to the clerical cadre without any minimum qualifying service.

1.1.3: Those workmen in subordinate cadre who are designated as either Daftries or Peon-cum-Daftries or Head Peons and have passed either matriculation or equivalent examination shall be eligible for promotion to the clerical cadre provided they have at their credit minimum two years service either as Daftry or Peon-cum-Daftry.

1.1.4: Those workmen in subordinate cadre who are designated as Peons, Cash Peons, Bill Collectors or those who have a composite designation of Peon-cum-Daftries including those workmen mentioned in Clause 1.1.3 who do not have two years service as Daftry and have passed either Matriculation or equivalent examination shall be eligible for promotion to the clerical cadre provided they have at their credit minimum two years service after passing Matriculation or equivalent examination.

1.1.5: Those workmen in Subordinate cadre who are designated as Peons, Cash Peons, Bill Collectors, Daftries Head Peons or those who have a composite designation as Peon-cum..... and have passed 8th Standard/Class examination from a recognised Institution shall be eligible for promotion to the post of Cashier-cum-Godown Keeper only provided they have not in less than 8 years of confirmed service.”

The Circular further envisaged that the method of promotion shall be on the basis of performance of a workman in subordinate cadre in written test and or in interview as the case may be.

9 According to WW-1 Krishna Murari Prasad the concerned workman was working in the Regional Office of the Bank sometime in 1984 as Chaprasi and later in Madhubani branch of the Bank also as Chaprasi. Thus it appears that he was working as a member of the subordinate cadre of the

Bank in 1984. It appears from the letter dated 2-5-86, Ext. W-1 of the Regional Manager addressed to the Manager Madhubani Branch that he passed Pravashika examination in 1985. Admittedly, Pravashika examination is conducted by Hindi Vidyapith, Deoghar and the concerned workman passed this Pravashika examination. It further appears from the letter of the Regional Manager that on the recommendation of the Branch Manager and in view of the fact that the concerned workman have passed Pravashika examination, 1985 which was recognised as equivalent to Matriculation, he was allowed to officiate in clerical cadre as and when occasion arose.

Anyway, it is the undisputed case that the concerned workman appeared in the written test on 24-8-86 for promotion from subordinate cadre to clerical cadre in terms of the Promotion Policy settlement dated 1-7-83 and the circular of the management dated 6-7-83 containing the Promotion Policy Settlement. It is also irrefragible possible that he was successful in the written test and appeared in the interview on 19-2-87 and became successful.

It is the contention of the management that the concerned workman was allowed in the written test and interview in terms of the above mentioned circular and on the basis of letter No. 7464 dated 5-6-86 of the Bihar Government recognising Pravashika examination conducted by Hindi Vidyapith, Deoghar as equivalent to Matriculation examination. Anyway, the fact remains that the management recognised earlier Pravashika examination as equivalent to Matriculation examination on the basis of the letter of the Bihar Govt. It has remained undisputed that the concerned workman upon his being successful in the written test and in the interview, was advised to report at Bank's Zonal Training Centre, Patna for attending Induction/Orientation programme meant for newly promoted likely to the promoted clerks from subordinate cadre to clerical cadre. It is not also disputed that he underwent training at Zonal Training Centre at Patna from 6-4-87 to 18-4-87 and secured IIIrd position in Self Evaluation Examination. It appears from the letter of the Zonal Training Centre dated 18-4-87, Ext. W-3 that he underwent training in the Zonal Training Centre in induction/evaluation programme for newly promoted clerks from sub-staff cadre along with 31 others including Krishna Murari Prasad of Patna 'A' Region (Sl. No. 3), Ramchandra of Patna 'B' Region (Sl. No. 9), and Bhabananda Jha of Muzaffarpur Region (Sl. No. 28) Ext. W-3. It further appears from this letter Ext. W-3 that the name of the concerned workman appears at Sl. No. 32 at the bottom of the list. WW-1 Shri Krishna Murari Prasad has testified that both he and the concerned workman underwent training at Patna Training Centre and the training was from 6-4-87 to 18-4-87 and that the concerned workman obtained the third position according to his performance in the Zonal Training Centre. He has further stated that he passed Pravashika Examination from Hindi Vidyapith, Deoghar and got promotion in 1986 as Clerk after passing written test and interview. He also stated that some four or five employees of the Bank excluding him underwent training at the Training Centre who had passed examination from Hindi Vidyapith, Deoghar. It is the firm case of the union that S/Shri Krishna Murari Prasad Ramchandra and Bhabananda Jha hold exactly equal equivalent as the concerned workman holds by passing Pravashika examination from Hindi Vidyapith, Deoghar. This statement of fact has not been disputed by the management.

10. It is the firm case of the sponsoring union that S/Shri Krishna Murari Prasad of Patna 'A' Region, Ramchandra of Patna 'B' Region and Bhabananda Jha of Muzaffarpur Region have been allowed promotion to Clerical cadre by the Bank after empanelment. But the concerned workman has not promoted to Clerical Cadre.

11. The management has provided reasons for not promoting the concerned workman to Clerical cadre, by stating that he did not have the requisite educational qualification. According to the Bank, earlier Pravashika Examination conducted by Hindi Vidyapith, Deoghar was treated as equivalent to Matriculation examination but on a reference to the matter, Ministry of Education, Govt. of India by letter dated 28-6-87, Ext. M-5 has intimated that recognition to examination conducted by Hindi Vidyapith, Deoghar has been accorded only with regard to standard of Hindi prescribed in the equivalent Hindi examination and this shall not be treated as full-

flaged degree of the education to which it has been treated as equivalent. The Bank, it appears, took up the matter with Akhil Bhartiya Hindi Samstha Sangh and it is reported by Sangh by letter dated 29-6-87, Ext. M-6 that Hindi examinations Pravashika Sahitya Sudhakar and Sahitya Alankar conducted by Hindi Vidyapith, Deoghar are recognised by the Ministry of Education, Govt. of India only in regard to the standard of Hindi and prescribed in the examination of Matric, Inter, and B.A. respectively. It appears from the judgement of the Hon'ble Patna High Court in C.W.J.C. of 118 of 1988 (Punjab National Bank Employees Union & Ors-vrs-Punjab National Bank & Ors), Ext. M-1 that from the two communications dated 29-7-87 and 2-1-1988 a decision was taken at the highest level of the Bank not to recognise the certificates of Hindi Vidyapith, Deoghar for the purpose of promotion and appointment. The Hon'ble Court has also held that the case of the petitioner in that case is not sustainable since they are to appear at the written test after 29-7-87 and 2-1-88 when the decision not to recognise the certificates of Hindi Vidyapith, Deoghar has become operative. Thus the cut off dates for de-recognition of the Praveshika examination certificate of Hindi Vidyapith, Deoghar are 29-7-87 and 2-1-88 but in the present case the concerned workman obtained the Praveshika certificate in 1985, appeared in the written test on 24-8-85 and came out successfully, also appeared in the interview on 9-7-87 and came out successfully and underwent training at the Zonal Training Centre in respect of programme for evaluation/orientation programme for newly promoted clerks from 6-4-87 to 18-4-87 and came out successfully by securing IIIrd position in self evaluation examination. Thus it appears that the concerned workman passed Praveshika examination of Hindi Vidyapith, Deogarh, passed also the written test and interview, and successfully underwent training long before the cut off dates. So in my view he is entitled to get promotion subject of course to vacancy. Hence the action of the management in not considering his case for promotion to Clerical cadre is not justified.

12. From another angle the action of the management is not justified also. It appears from the evidence that S/Shri Krishna Murari Prasad, Ramchandra, Bhabananda Jha are having the same educational qualification as the concerned workman i.e. the certificate of Pravashika examination of Hindi Vidyapith, Deoghar. All of them underwent training at the Zonal Training Centre Patna between 6-4-87 to 18-4-87 and came out successful. Save and except the concerned workman all have been promoted to the Clerical cadre. The management, by not considering the case of the concerned workman for promotion to Clerical Cadre has made a discrimination between the workman and workman. The plea of the management that the position of these persons are not comparable to that of the concerned workman has not basis at all since nothing has surfaced in evidence to support this contention.

13. Thus upon consideration of evidence on record and facts and circumstances of the case. I am constrained to hold that the action of the management in not considering the case of the concerned workman for promotion to Clerical cadre is not justified. Accordingly the following Award is rendered:—

"The action of the management of Punjab National Bank, Madhubani Branch in not promoting Shri Bechu Jha even after passing Written test/interview is not justified. The management is therefore, directed to consider his case for promotion with effect from the date the other three workmen mentioned above were promoted to Clerical Cadre and to give him other consequential benefits."

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-12012/243/89-DII(A)]

S.O. 1320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on the 16-4-91.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 BOMBAY

(PRESIDING OFFICER, JUSTICE S. N. KHATRI)  
Reference No. CGIT-58 of 1989

#### PARTIES :

Employers in relation to the Management of Life Insurance Corporation of India, Ahmedabad

AND

Their Workmen.

#### APPEARANCES :

For the Management—Shri A. W. Dharwadkar, Advocate.

For the Workmen—Shri P. V. Kulkarni, President of the Association.

INDUSTRY : Insurance

STATE : Gujarat

Bombay, dated 9th April, 1991

#### AWARD

The Central Government has referred the following industrial dispute to this Tribunal under section 10 of the Industrial Dispute Act, 1947, for adjudication :

"Whether the action of the management of LIC of India Ahmedabad Division is not granting annual increment with retrospective effect i.e. 1-4-1980 and other connected benefits like Bonus, PF, Medical to Shri Y. M. Kakoqala and 22 other workmen who were absorbed on regular basis pursuant to the Award passed by CGIT No. 2 Bombay, is justified? If not, to what relief the concerned workmen are entitled?"

2. The material facts lie within a narrow compass and are not in dispute. The Life Insurance Corporation of India, Ahmedabad (hereinafter 'the Management') were initially following the practice of employing Badli workers and giving intermittent breaks to them, so that they could not claim benefits under Chapter V-A of the Industrial Disputes Act (hereinafter, 'the Act'), Life Insurance Employees' Association (hereinafter, 'the Association') who are representing the 23 Workmen involved in the present reference and two other Trade Unions—Life Insurance Corporation Employees' Union and Insurance Corporation Employees' Union—were agitating for regularisation of the Badli workers, most of whom were Peons, Sweepers and Watchmen. At their instance, an industrial dispute was referred by the Central Government to Central Government Industrial Tribunal No. 2, Bombay, for adjudication by their order dated 15-4-80. The reference was :

"Whether the demand of the existing empanelled badli workmen in Ahmedabad Division of the Life Insurance Corporation of India for their absorption as regular employees is justified? If so, to what benefits and from which date are the concerned workmen entitled?"

3. Shri M. A. Deshpande, Presiding Officer, of the aforesaid Tribunal made his award on 25-11-1982. Ex. W-8 is the copy of the award, published in the Gazette of India. I shall generally refer to this Award as 'the previous Award'.

4. The Tribunal held that the practice of the Management giving breaks deliberately, depriving Badli workmen of their legal status, amounted to an unfair labour practice.

का.प्र. 1320--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रवचन में, केन्द्रीय सरकार, भारतीय जीवन बीमा निगम के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संबंधी के पंचाट को प्रकाशित करने के लिए केन्द्रीय सरकार को 16-4-91 को प्राप्त हुआ था।

It gave a direction to the Management to absorb Badli Workmen with retrospective effect from 1-4-80 as against vacancies that may be available for absorption. The number of such vacancies was to be fixed by the Management in consultation with the three Trade Unions. The Tribunal has not collated the terms of the award at one place. Hence some difficulty has arisen in its implementation. The workman involved in this dispute mainly rely on paras 26 and 27 of the Award. I am reproducing them for ready reference for proper appreciation of the rival contentions of two sides :

"26. Since prior to 1982-83 at least the number of vacancies seems to be less than the number of aspirants, while considering the seniority for absorption, the number of days shall be the criterion in the sense that out of non-absorbed badli employees those employees who have put in highest number of days in the service of the Corporation during the years 1980-81 and 1981-82 shall stand first and in the same manner a serial order shall be prepared so that the requisite number of badli employees can be absorbed in the then existing vacancies. The progress of such absorption shall start from 1-4-1980. Before such absorption the Corporation shall make offer to the concerned employees in writing by registered post offering the employment and if for any reason it is declined or there is no response in writing within a period of one month from the date of issue of such registered letter, the next man in the serial order shall be considered.

27. It is true that by giving retrospective effect I am casting an additional financial burden on the Corporation because once a particular employee is deemed to have been absorbed from a particular earlier date, there would be liability to pay the emoluments from the said date at the prescribed rates along with allowance minus that may have been paid to such employees during these years as Badli workmen. However this becomes necessary because of the earlier assurance as long back in 1979 which remains unfulfilled despite the Corporation having agreed to absorb the badli workmen at other places in the settlement arrived at in the year 1979 and subsequently."

4. The Management issued appointment orders to the 23 Workmen on 22-6-83 in the usual form in which the same are issued to regular appointees, without any reference to the previous Award. The Management have paid them back wages with retrospective effect from 1-4-80, but have not granted other benefits like annual increments, bonus, Provident Fund, Medical facilities which are available to regular employees. The Association took the matter with the Management, but without success. Eventually they wrote a letter to the Assistant Labour Commissioner (Ex. W-4) on 16-9-88. As the conciliation proceedings did not bear any fruit a failure report followed, culminating in the present reference. Now the Association claims that the Management may be directed to grant annual increments, medical benefits, Bonus, Provident Fund etc. from the date of 23 Workmen have been absorbed, to rectify the pay properly according to Rules and pay the arrears arising out of the rectification of pay.

5. The Management resist the claim of the Workmen by their written statement. Their preliminary objections are that the reference is bad for the reason that it involves interpretation of the previous award and as such should have been made under section 36-A and not section 10 of the Act. It is also contended that the reference is stale and is at the instance of the Association who represent only a small section of the Workmen, the other two Unions who represent the substantial majority of the workers, having accepted the interpretation of the award as set out by the Management. On merits, the Management say that the previous award in terms restricts the payment to 'emoluments', which term will include only basic pay, D.A., C.I.A. and H.R.A. and no other benefits. The Management urge that if the previous Tribunal had intended to give any addi-

tional reliefs, it would have stated so specifically in the Award. Thus according to them even on merits the Workmen have no case. They pray for rejection of the reference.

6. The Association have filed their rejoinder, explaining that there is no delay on their part and that they had taken up the matter with the Management without any loss of time. When these representations did not fructify, they moved the conciliation machinery, culminating in this reference.

7. The issues that arise for consideration are given below with my findings thereon :

Issues	Findings
1. Is the Reference bad for any of the reasons pleaded by the Management?	No, it is in Order.
2. Are the Workmen entitled to the benefits of annual increments, P.F., Bonus and medical benefits from the date of their absorption?	Yes.
3. What reliefs are the workmen entitled to?	As per final para.

8. The parties have not led any oral evidence. They have however filed documents, which have been exhibited by consent. Shri Mishra for the workmen and Shri Dharwadkar for the Management have addressed oral arguments. The latter has also filed a synopsis of his submissions.

9. The first attack is on the ground of laches. I do not think there is any substance in this ground. The Award was passed in November, 1982. The Workmen in question were taken back in regular service in 1983. The averments in the statement of claim that the Association had in the beginning initiated negotiations with the Management, are not denied in the Management's written statement. As these steps did not bear any fruit, the Association was forced to approach the Conciliation Machinery by its letter dated 16-9-88 (Ex. W-4). I do not think there were any laches on the part of the Workmen. At any rate, this would not afford by itself, a ground to reject the reference in limine. The further objection is also without any merit, that because the other two Unions have acceded to the Management's interpretation of the previous Award, the Association who are supposed to be in minority should not pursue the just cause of the Workmen.

10. The objection on the other ground is two-folded. The first part is that there is absolutely no difficulty in interpretation of the previous Award as to the reliefs granted to the Workmen and as such there does not exist any industrial dispute whatsoever, which would justify the Central Government's making this reference under section 10 of the Act, particularly when the previous Award is still in force. The second part of the argument is that if there is any difficulty or doubt or ambiguity about the interpretation of the previous Award, the Government ought to have made reference under section 36-A of the Act and not under section 10. These submissions may be ingenious, but do not stand scrutiny on merits.

11. In para 27 of the previous Award, the learned presiding Officer has employed the term 'emoluments' rather in a general way and not as a synonym of 'salary' as defined in clause 3(j) of the L.I.C. Staff Regulations, as sought to be made out by Shri Dharwadkar in his written submissions. The term 'emoluments' as generally understood has a sweep wide enough to include not only 'salary' as defined in the Regulations, but also other items of profits from employment, such as incremental raises, Provident Fund, different kinds of leave, medical facilities etc. But I am not depending merely on the use of this term by the learned Presiding Officer in the previous Award. What is more important is that he was anxious to ensure that the Workman who were to be absorbed fulfilled all essential prescribed requirements for the jobs, such as academic qualifications, medical fitness, etc. In other words, these absorbed workmen were designed to be virtually on par with those recruited on merits. Now the Corporation being 'State' within the meaning of Article 12 of the Con-



situation it is not open to them to plead that they will not grant increments or promotions or other benefits such as Provident Fund, Medical facilities, leave etc. to these absorbed workmen on par with regular appointees, although both categories will be during the same work. All these aspects must have been present to the mind of the learned Presiding Officer. His silence on expressly spelling out all details of the service benefits that would be available to the Workmen, cannot be interpreted as his conscious decision to deny all the benefits to the Workmen in question, except the basic salary and allowance. I cannot contemplate such a situation for a moment. With respect to him I am sorry to say that the Management are trying to make capital out of this omission, because the learned judge omitted to collate all his directions at one place and has left the parties gather them from various paragraphs of his Award. The worst for the Workmen, it may be said that the learned Presiding Officer did not give comprehensive directions on the second part of the Reference before him, namely, "To what benefits and from which date are the concerned Workmen entitled?" I will have now to spell out these details in the light of the previous award and other relevant circumstances. The work does not amount to merely interpreting the previous Award. I do not think the Government were bound to necessarily limit the scope of the reference to section 36-A of the Act.

12. What is then the scope and purpose of this Reference? The previous Award directs the Management to absorb the Workmen in the regular cadre from the dates vacancies were available for them. The Management put their own technical interpretation on that Award and refused certain rights to them accruing from their parity with the regular incumbents. This is undeniably an Industrial Dispute, which the Government has very rightly referred to this Tribunal for adjudication. This could be done only under section 10 of the Act. Both branches of the Management's submission on the first issue stand answered against them.

13. I am now free to adjudicate the industrial dispute before me on merits. As already observed by me above, the 23 Workmen in question are absorbed in the regular cadre from the dates vacancies were available for them. They are on par with their co-employees who are regularly recruited. The Management are 'State' within the meaning of article 12 of the Constitution. Article 14 applies to them in full measure. They will have to extend all the terms and conditions of service of regular incumbents to the 23 workmen in question. All the claims of the present Workmen including those of grant of increments and other benefits like bonus, Provident Fund and Medical facilities etc. are in order and will have to be granted. As I find the stance of the Management entirely unsustainable and unreasonable, I also saddle token costs of Rs. 5,000 on them.

14. The action of the Management in not granting annual increments to the 23 Workmen in question from the respective dates of their absorption and other connected benefits like Bonus, Provident Fund, Medical facilities etc. which are available to regular incumbents is unjustified. It is declared that these Workmen are entitled to all the terms and condition of service on par with the regularly employed Workmen in identical posts. The Management shall pay to the Workmen within 2 months of the publication of the Award their arrears, after adjusting previous payments. The Management shall also pay Rs. 5,000 as costs to the Association and bear their own. The unpaid balance shall carry interest @12 percent p.a. from the date of default till payment. Award accordingly.

S. N. KHATRI, Presiding Officer

[No. 1-17012/9/89-IR(B)]

का.प्रा. 1330.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, विजया बैंक के प्रबंधन में संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-4-91 को प्राप्त हुआ था।

S.O. 1330.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Vijaya Bank and their workmen, which was received by the Central Government on the 15th April, 1991.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

#### PRESENT :

Sri G. Krishna Rao, B.A., B.L., Industrial Tribunal.

Dated, 4th April, 1991

Industrial Dispute No. 78 of 1990

#### BETWEEN

The Workman of Vijaya Bank, Bangalore.

#### AND

The Management of Vijaya Bank, Bangalore.

#### APPEARANCES :

Sri Mallikarjuna S. Mudalier, Representative—for the Petitioner.

Respondent Party—in person.

#### AWARD

This is a reference made by the Government of India, Ministry of Labour, by its Order No. 12012/247/90-IR-B(II) dated 6th December, 1990 for adjudication of the dispute between the Management of Vijaya Bank and their workmen setting forth the point for adjudication in the schedule appended thereto as follows :

"Whether the action of the Management of Vijaya Bank in imposing punishments of stoppage of one increment temporarily for 6 months and censurs on Sri D. Linguish and recovering the alleged financial loss of Rs. 20,108.90 suffered by the Bank, from the workman is justified? If not to what relief the workman is entitled?"

The said reference was registered as Industrial Dispute No. 75 of 1990 on the file of this Tribunal. After receiving the notice, both parties appeared before this Tribunal and the matter was posted for filing claim statement of the Petitioner-workman and the counter of the Respondent-Bank. While the matter stood thus both the parties filed a Joint Memo of Settlement on 4th April, 1991 compromising the matter among themselves. The terms of settlement are read over and explained to both the parties and they admitted the same to be true and correct. In view of keeping peace and harmony in the industry and good relationship between the Management and the workmen, the Settlement was recorded. In view of the Settlement entered into between the parties and in view of the Joint Memo of Settlement filed by both the parties. I am of opinion that there is no need to go into the merits of the case and pass an award on merits in this case, and an Award is to be passed in terms of the Settlement filed by both the parties jointly.

2. In the result, an Award is passed in terms of the Settlement entered into by both the Parties. The joint memo of settlement filed by both the parties is appended to this Award. There will be no order as to costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 4th day of April, 1991.

G. KRISHNA RAO, Industrial Tribunal

[No. L-12012/247/90-IR(BH)]

Appendix of Evidence

Nil

Sd/-

G. KRISHNA RAO, Industrial Tribunal



BEFORE THE PRESIDING OFFICER, INDUSTRIAL  
TRIBUNAL AT HYDERABADIndustrial Dispute No. 78 of 1990  
Ref. No. L. 12012/247/90-IR.B(II)Dated 6th December, 1990 from Government of India,  
Ministry of Labour,

BETWEEN

D. Lingaiah,  
Clerk,  
Vijaya Bank,  
Malakpet-Hyderabad  
(Now working at  
Narayanaguda-Hyderabad)

...Workman

AND

The management of Vijaya Bank  
represented by  
The Divisional Manager,  
Vijaya Bank,  
Divisional Officer-Hyderabad.

...Employer

Joint Memo of Settlement filed by the Parties

The humble Joint Petition on behalf of the parties—  
Most respectfully submitted as under:—

1. (a) That the workman accepts the punishment of "stoppage of one increment temporarily for a period of six months" in respect of charge No. 1 and "censure" in respect of charge No. 2 imposed by the Disciplinary Authority vide his final order No. BGS : ISS : 18459 : 89 dated 11th September, 1989 and upheld by the Appellate Authority vide appellate order No. PER : IRS : 2497 : 89 dated 8th December, 1989 in respect of charge-sheet No. MIN : IRS : CS : S : 87 dated 10th December, 1987.
- (b) That the Employer has agreed to waive recovery of a sum of Rs. 20,108.90 (Rupees Twenty Thousand One Hundred Eight and Paise Ninety only) from the workman, being the amount of loss caused to the bank due to fraudulent encashment of cheque in Savings Bank Account No. 740, in respect of which the workman was charge-sheeted vide charge-sheet No. MDE : IRS : CS : B : 87 dated 10th December, 1987.
- (c) That the dispute referred under the above order of reference, for adjudication by this Learned Tribunal, has been fully and finally settled and there is no dispute now in existence between the parties.
2. That the petitioners submit the terms of settlement, set herein above, are fair and reasonable.

Your petitioners hereby pray that Your Honour would be pleased to find the terms of settlement fair and reasonable and dispose of the instant reference by an Award, in terms of, and incorporating this Joint Petition of Compromise.

Place : Hyderabad.

Date : 3-4-1991.

for Vijaya Bank (Employers)

Sd/-

(K. Jagadish Rai)  
Divisional Manager

Sd/-

(D. Lingaiah)  
Workman

S.O. 1331.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1 Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on the 18-4-91.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1 BOMBAY(PRESIDING OFFICER : JUSTICE S. N.  
KHATRI)

Reference NO. CGIT-48 OF 1987.

## PARTIES :

Employers in relation to the management of  
Life Insurance Corporation of India,  
Bombay.

AND

Their Workmen.

## APPEARANCES :

For the Management.—Shri P. R. Namjoshi,  
Advocate.

For the Workmen.—Shri Uday Singh, Advocate.

INDUSTRY : Insurance. State : Maharashtra  
Bombay, dated 11th April, 1991

## AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Dispute Act, 1947 :

"Whether the dismissal of Shri P. S. Walawalkar, Development Officer by the Zonal Manager, LIC of India, Western Zone, Bombay, w.e.f. 12-12-1984, is justified? If not, to what relief the concerned workman is entitled to?"

2. P. S. Walakalkar (hereafter 'the Workman') joined the Life Insurance Corporation of India, Bombay, (for short, 'the Corporation') as Development Officer in March, 1961. Since 1970 he has been in occupation of Staff quarters situated at Vile Parle as licensee of the Corporation under an agreement dated 12-6-70 by virtue of his being their employee. It appears that when Building Inspector Mattoo of the Corporation visited the Flat in October 1980, he found there besides the Workman, one Smt. Shrivastava with her small child and one Tommy in the Flat. Another Inspector Dave paid visit in December 1980. These three persons were again found there. On reports of these Inspectors, the Zonal Manager of the Corporation wrote to the Workman that he had either sublet the premises or kept the three persons as his paying guests and that this action of his was in breach of the conditions of the agreement of leave and license. He ordered the workman to vacate the Flat and also pay damages/mesne profits at the rate of Rs. 34.80 per day.

का.प्र. 1331.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारतीय जीवन बीमा नियम के प्रवर्धन से संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1 बंबई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-4-91 को प्राप्त हुआ था ।  
1158 GI/91—9

3. The Workman did not vacate the premises and pleaded that because his sister who was staying at Thane had suffered a heart attack, his wife was required temporarily to shift to Thane with their two children to look after the ailing lady. Meanwhile the Workman also developed Lumbago, requiring nursing. Therefore he requested his friend's wife (Smt. Shrivastava) to come over to his flat and also employed Tommy as servant. He denied that he had sublet the Flat to them or was receiving any monetary benefit from them. On the other hand, he asserted, he was paying them for their services to him.

4. As the Workman did not vacate the premises, the Corporation initiated eviction proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereafter '1971 Act'). As it turned out that this Act did not apply to Corporation premises, the Corporation filed a suit for eviction and mesne profits against the Workman in the Small Cause Court, Bombay, and also started criminal proceedings. The Corporation further went on to deduct damages at the rate of Rs 34.68 per day from the salary of the Workman, effective from 30-12-80. To cap this all, disciplinary proceedings were instituted against him by a charge-sheet dated 10-3-81. It will be useful to reproduce the charge verbatim :

"1.(a) The premises at c-6/14 in the Jeevan Shani Colony Santacruz (W) Bombay 400 054 were allotted to Shri P. S. Walawalkar under the Leave and Licence Agreement dated 12th June, 1970 (Document No. P.1.A and 1.B) for exclusive use as a residence only to Shri P. S. Walawalkar and members of his family only by reason of his being in his service of the Life Insurance Corporation.

(b) In terms of the said Leave and Licence Agreement duly executed and entered into by Shri P. S. Walawalkar with the Corporation he was not allowed to take any paying guest and/or sublet or give on leave and leave and licence basis the said premises allotted to him or any portion thereof under any circumstances whatsoever.

(c) However, in contravention of the provisions of the aforesaid Leave and Licence Agreement entered into by Shri Walawalkar with the Corporation, he sublet the aforesaid premises unlawfully.

2.(a) Shri P. S. Walawalkar thus violated the Terms and Conditions of the aforesaid Leave and Licence Agreement.

(b) The Zonal Manager therefore by his order ref. Estab/6009/SK dated 26-12-1980 (Document No. P-6) terminated the Leave and Licence Agreement and directed Shri Walawalkar to vacate and hand over peaceful possession of the aforesaid premises within a period of seven days from the date of receipt of the said order.

Shri Walawalkar failed to vacate and to hand over the vacant and peaceful possession of the aforesaid premises as per the directives given to him.

4. (a) By his aforesaid action he failed to maintain absolute integrity and

(b) Acted in manner prejudicial to good conduct as well as detrimental to the interest of the Corporation.

(c) By his aforesaid action he committed a breach of the provisions of Regulation 21 read in conjunction with Regulation 39(1) of the Life Insurance Corporation of India (Staff Regulation) 1960."

5. Shri P. K. Pandit, Divisional Manager, conducted the inquiry and by his report dated 8-9-83 (Ex. M-2) found the Workman guilty of all the charges. The Zonal Manager by his order dated 12-12-84 dismissed the Workman from service. The Workman preferred an appeal from this Order, which came to be rejected on 24-4-85. A memorial presented under Regulation 49 of the Life Insurance Corporation of India (Staff Regulations) 1960 (hereafter the Regulations) met the same fate.

6. The Workman denies that he ever sublet any part of the premises to any of the three persons or kept them as his paying guests, as alleged by the Corporation. His case is already stated in para 3 supra. He now challenges the dismissal order on various grounds which I am listing below, and prays for his reinstatement with full back wages. He also requests for a direction to the Corporation to restore his basic salary with the effect from 31-12-80, which was withheld for recovery of damages/mesne profits. The grounds of challenge are :

(i) The Workman of the Corporation are governed by the Model Standing Orders framed under the Industrial Employment (Standing Orders) Act, 1946 (hereinafter, 'the 1946 Act') and not by the Regulations, and as such the charge-sheet issued under the Regulations for misconduct assumed to be punishable under Regulation 21 and the entire proceedings following the issuance of the charge-sheet are void ab initio.

(ii) Assuming the Regulations govern the employees, breach of Regulation 21 does not amount to any misconduct in the eye of the law, which could be legally punished under Regulation 39.

(iii) It was not open to the Corporation to start disciplinary proceedings when they had already opted for approaching the Authority under the 1971 Eviction Act and the Small Causes Court and had also taken action for recovery of damages/mesne profits at the penal rate from his basic pay.

(iv) He was denied assistance of an Advocate and even of a co-employee, which has resulted in infraction of the principles of natural justice.

(v) In view of the Corporation's withholding of his basic salary since 30-12-80 for deduction of damages/mesne profits he was getting just Rs. 2 or so per month during the pendency of the domestic inquiry, and this resulted in serious prejudice to him.

- (vi) The higher officers of the Corporation were biased against him, because of his active participation in Trade Union activities.
- (vii) The impugned order borders on perversity.
- (viii) The order dated 24-4-85 passed in appeal is not a speaking order at all, and as such is void, rendering the entire proceedings bad.
- (ix) The Corporation's action in withholding his basic pay from 30-12-80 is illegal and improper.

7. The Corporation have filed their written statement resisting the claim of the Workman in toto. According to them, the Regulations govern their Workmen. They point out the provisions of section 49 of the Life Insurance Corporation of India, Act, 1956 (hereafter the 1956 Act) under which the Regulations are framed, will override section 12A of the 1946 Act, under which the Standing Model Orders are supposed to apply to the present Workman. They state that the inquiry was held in full accord with the provisions of the Regulations and the principles of Natural Justice and at any rate no prejudice has been caused to the Workman. The Corporation deny that the Workman's allegations of bias and other aspects adumbrated in para 6 supra. According to them, the Workman is not entitled to any relief.

8. The Workman has filed his own affidavit in support of his case. He is cross-examined by Shri Namjoshi for the Corporation. The Corporation have not adduced any oral evidence. Both sides have filed a number of documents, which have been exhibited by consent. The Corporation have filed the proceedings of the domestic inquiry also. Shri Singh for the Workman and Shri Namjoshi for the Corporation have addressed oral arguments and filed written memorandum.

9. The points stated in para 6 supra fairly reflect the issues that arise for determination. I need not repeat them. Three further issues will have to be answered, depending on the findings on the above points. These would be : (1) Whether he is entitled to reinstatement ? (2) Whether he is entitled to full back wages ? and (3) Whether the Corporation is liable to restore his basic pay withheld from the 30-12-80 ? For the reasons that follow, the order of dismissal will have to be set aside as illegal and unjustified and the Workman will get all the three reliefs he has sought.

10. I shall dispose of the points serially. There is substance in Shri Singh's contention that the standing Model Orders under the 1946 Act and not the Regulations apply to the Workmen of the Corporation. The correct legal position, as claimed by Shri Singh, would be that the 1946 Act is a special law in regard to the matters enumerated in the Schedule and the Regulations which are made under section 49 of the 1956 Act with respect to any of those matters are of no effect, unless those Regulations are either notified by the Central Government under section 13-B of the 1946 Act or are duly certified by the Certifying Officer under section 5 thereof. Item 9 of

the Schedule runs, "suspension of dismissal for misconduct, and all acts or emissions which constitute misconduct", Shri Namjoshi does not dispute that this item will cover the subject matter of this reference. What he contends is that because the 1956 Act under which the Regulations came to be made in subsequent to the enactment of the 1946 Act, section 49 of the former Act will override the provisions of the latter Act. This aspect is squarely decided by the Supreme Court decision reported in 1978 Lab I.C. 1657. The U.P. State Electricity Board Vs. Harishankar Join. There the relevant regulations were framed under the Electricity (Supply) Act which came on the Statute Book in 1948 (subsequent to the Advent of the 1946 Act). I cannot agree with Shri Namjoshi. In the first place it will be seen that section 12-A of under which Standing Model Standing Orders are to hold the field during the transitory period, was inserted in the 1946, by amending Act 39 of 1963, when the 1956 Act was already very much on the Statute Book. Then even if the position had been just the contrary, that is to say, the 1956 Act had been enacted after insertion of section 12-A in the 1946 Act, I would have still held that section 12-A and other material provisions of the 1946 Act, would override section 49 of the 1956 Act. This aspect has been dealt with at length in Harishankar's case. It is not necessary for me to dilate further on the point.

11. The correct legal position being as above, the Regulations do not apply to the Workman, so far as the question of his dismissal for misconduct arises. It is also not permissible to the Corporation to bank on Regulation 21 to constitute the alleged misconduct. The entire charge-sheet and the rest of the proceedings that followed it are without jurisdiction and void ab initio.

12. The reference deserves to be accepted in its entirety in view of the above position. However, to err on the safer side, I shall proceed to determine the rest of the issues as well and give sketchy reasons in support of my findings.

13. The next question is whether assuming the allegations stated in the charge-sheet and reproduced in para 3 supra, are true, do they constitute misconduct as contemplated by Regulation 21, read with the opening part of Regulation 39(1). Here we may have a look at para 4 of the chargesheet. It will be useful to reproduce Regulation 21 and the opening part of regulation 39(1) to appreciate Shri Singh's submission that the acts referred to in para 1 to 3 of the charge-sheet do not constitute any item of misconduct.

"Liability to abide by the Regulations"

21. Every employee of the Corporation shall at all times maintain absolute integrity and devotion to duty, shall conform to and abide by these Regulations and shall observe, comply with and obey all orders and directions which may, from time to time, be given to him in the course of his official duties by any person or persons under whose jurisdiction, superintendence or control he may, for the time being, be placed."

39.(1) Without prejudice to the provisions of other regulations, (any one or more of) \*the following penalties for good and sufficient reasons, and as hereinafter provided, be imposed (by disciplinary authority specified in Schedule 1)\* on an employee who commits a breach of regulations of the Corporation or who displays negligence, inefficiency or indolence or who knowingly does anything detrimental to the interest of the Corporation or conflicting with the instruction or who commits a breach of discipline, or is guilty of any other act Prejudicial to good conduct" —

14. I find substance in Shri Singh's submission. I have gone through the agreement or leave and licence (Ex. M-5). It records the various covenants and also provides what remedies would be open to the Corporation for breach of them. No where does it even remotely indicate that breach of any covenant would amount to misconduct within the meaning of the Regulations. Then on reading the text of Regulation 21 and opening part of Regulation 39, it is difficult to endorse the case of the Corporation that the allegations in the charge-sheet amount to misconduct as contemplated by these Regulations. In the first place it is not possible to take the view that Regulation 21 creates any specific items of misconduct. Its object appears to declare in general terms that the Corporation expects standard probity from its employees. At any rate, the act or omission on the part of the Employee which is said to infringe Regulation 21, must have some rational and causal nexus with the official duties of the employee concerned. It is difficult to appreciate how a breach of the terms of the leave and license agreement detracts from the employee's maintaining absolute integrity. I also cannot persuade myself to hold that because the workman has not complied with the Corporation's directions to vacate the premises, the act can attract Regulation 21. The reason is that there is no nexus between the workman's act and the performance of his official duties. As I have already stated, the agreement itself provides for a number of remedies to the Corporation, which it may pursue. Indeed, the Corporation has availed itself of these remedies. It initiated proceedings under the 1971 Act and again filed a suit in the Small Cases Court also, not to mention the criminal prosecution. Regulation 21 does not enable the Corporation to take out disciplinary proceedings against the workman for his refusal to vacate the Flat.

15. Regulation 39(1) also does not take the Corporation's case any further. The action of the workman cannot amount to 'doing anything detrimental to the interest of the Corporation or "being guilty of any act prejudicial to good conduct." Both alternatives, to repeat, should have rational nexus with the performance of official duties. The act of the workman complained of does not have any such nexus. The phrase "act prejudicial to good conduct" is very vague and will have different meaning for different persons, depending upon the individual temperament and the environment of the person concerned. A hand-shake with a lady client by an employee or even a greeting accompanied by an innocuous simple might

in the honest view of some puritans, amount to an "act prejudicial to good conduct. The law cannot for a moment contemplate uncertainty or ambiguity on a serious question as to what constitutes 'misconduct' and leave the matter at large to the unguided discretion of the Authorities. It will be treading on dangerous ground to treat such acts as "prejudicial to good conduct". I am clear that the acts imputed to the workman certainly do not attract Regulation 39(1) or 21. All the proceedings held against him right from the beginning by way of disciplinary action are without jurisdiction and void.

16. It may not be necessary to proceed further. But it would be meet to record my views on the other important points also. In my opinion, after having opted for legal proceedings against the workman before the three different fora, it was highly improper, if not absolutely illegal, for the Corporation to state disciplinary proceedings on the same facts, without waiting for the decision of the Small Causes Court. This virtually amounts to usurpation of that Court's jurisdiction. The Corporation were also not advised properly in withholding the basic salary of the workman for recovery of penal damages/mesne profits. They should have shown more patience and await the final decision of the Small Cause Court. This action of the Corporation had another vicious effect on the validity of the domestic inquiry. The workman was left with a meagre pittance of Rs. 2 per month (less than 7 paise per day) to eke out his existence during the pendency of the inquiry. This factor by itself renders the proceedings invalid on the ground of virtually depriving him of reasonable opportunity to defend himself. The inquiry threw up so many intricate questions—both of law and fact which necessitated assistance of an Advocate for the workman. The Enquiry Officer was clearly wrong in declining the request of the workman for legal assistance. It cannot be denied that this has obviously resulted in prejudice to the workman. All the factors so far dwelt on are singly enough to render the entire proceedings void.

17. Now are left the workman's grievances on bias and the pervisity of the findings given by the Enquiry Officer and confirmed by the Competent Authority. I am not going to make any observations on these linked aspects, because it will be improper to do so during the pendency of the Corporation's suit before the Small Cause Court.

18. The Appellate Authority has disposed of the workman's appeal in a cavalier fashion. Ex. W-18 is the copy of the Zonal Manager's order dated 24-4-85. These are literally the three sentences he has recorded "I have perused the appeal I have gone through the disciplinary proceedings. I am satisfied that the procedure followed by the Disciplinary Authority is in order and the penalty is not excessive". The appellate Authority was perhaps not aware that Regulation 46 enjoined upon him to consider three aspects before making the order. The process of 'consideration' contemplates application of mind and giving some tangible indications in the order however short the order may be—as to how the mind has worked to reach his conclusions. One of the three factors to be considered is whether the findings are justified. On this most crucial aspect, there is not even a single word in the order. The order is patently bad and void.

19. The result of the above discussion is that the impugned order of dismissal of the Workman is without jurisdiction and void and is as such liable to be set aside. The workman's contention that he is without any employment is not disputed by the Corporation. Accordingly he will have to be reinstated with full back wages. The action of the Corporation in withholding his basic pay for recovery of penal damages/mesne profits is also illegal. It is the Small Causes Court which will make suitable orders on this question. As the action of the Management is absolutely unjustified viewed from any angle, I would saddle workman's token costs of Rs. 3000 on them. I make the award as follows :

The order dated 12-12-84 dismissing the workman from service is illegal and unjustified and is hereby set aside. The Corporation are directed to reinstate him in service with immediate effect with continuity of service. They will pay full back wages and also release his basic salary withheld for 31-12-80. They shall pay Rs. 3000 to him by way of cost and bear their own. The payments under the Award will be made within one month of its publication. Failure to do so will carry interest @ 12 per cent p.a. on the unpaid part of the amount from the date of default till full payment. Award accordingly.

S. N. KHATRI, Presiding Officer

[No. L-17012/18/87-D.IV(A)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 25 अप्रैल, 1991

का. आ. 1332.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1-5-91 को उम तारीख के रूप में नियम करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध राजस्थान राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :-

“जिला एवं तहसील राजासमंद के राजस्व ग्राम-राजनगर जाव और कंकरोली के अन्तर्गत आने वाले क्षेत्र”।

[संख्या. एम. 38013/16/91 - एम. एम. 1]

New Delhi, the 25th April, 1991

S.O. 1332.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st May, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Rajasthan namely :—

“The areas comprising the Revenue Village-Rai Nagar, Jawad & Kankroli in District and Tehsil Rajasamand”.

[No. S-38013/16/91-SS.I]

नई दिल्ली, 26 अप्रैल, 1991

का. आ. 1333.—कर्मचारी राज्य अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 16-5-91 को उम तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रदत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :-

“विजयानगरम जिले में बोबीली नगर पालिका सीमा के अन्तर्गत आने वाले क्षेत्र”

[सं. एम. 38013/17/91-एम. एम. -1]

New Delhi, the 26th April, 1991

S.O. 1333.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 16th May 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh, namely :—

“The area within the Municipal limits of Bobbili in Vizianagaram District”.

[No. 38013/17/91-SS.I]

का.आ.1334.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 1-5-91 को उम तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा-44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध असम राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :-

क. सं. राजस्व ग्राम का नाम व नगर मोजा व तालुक जिला पालिका सीमायें

1. नागांव नगर पालिका क्षेत्र	नगर	नागांव
2. हैथर गांव	नगर	नागांव
3. औद्योगिक क्षेत्र इटावली	नगर	नागांव
4. पानीगांव	नगर	नागांव
5. कटोमारी पथर, हरापट्टी	नगर	नागांव
6. बरभेटा	कच्चाकारी	नागांव
7. छुटी कटिया	कच्चाकारी	नागांव
8. सेंचोबा	कच्चाकारी	नागांव

[सं. एम. 38013/15/91-एम. एम.-I]

ऐ. के. भट्टाचार्य, सचिव

S.O.1334.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st May, 1991 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Assam namely :—

S. No.	Name of the Revenue Village and Municipal Limits	Mouza & Taluk	District
1.	Nagaon Municipal Area	Town	Nagaon
2.	Haibargaon	Town	Nagaon
3.	Industrial Estate Itachali	Town	Nagaon
4.	Panigaon	Town	Nagaon
5.	Katimari Pathar, Harapatty	Town	Nagaon
6.	Barbheta	Kachamari	Nagaon
7.	Khutikatia	Kachamari	Nagaon
8.	Senchuwa	Kachamari	Nagaon

[No. S-380(13/15/91-S.S.I)]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 9 मई, 1991

का.आ. 1335:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, आई.ई.एल. लि. कलकत्ता और उनके कर्मचारियों के बीच औद्योगिक विवाद में अनुबन्ध में दिए गए राष्ट्रीय औद्योगिक अधिकरण, बम्बई के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 16 अप्रैल, 1991 को प्राप्त हुआ था।

New Delhi, the 9th May, 1991

S.O. 1335.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following Award of the National Tribunal at Bombay in the industrial dispute between employers in relation to the management of I.E.L. Ltd., Calcutta and their workmen, which was received by the Central Government on the 16th April, 1991.

#### ANNEXURE

#### BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT BOMBAY

(Presiding Officer : Justice S. N. Khatri)

Reference No. NB-2 of 1987

#### PARTIES :

Employers in relation to the management of I.C.I. India Ltd.

AND

Their workmen.

#### APPEARANCES :

For the Management : S/Shri Khambata and Habbu, Advocates.

For the Federation of the ICI and Associated Companies Employees Union : Shri Dudhia, Advocate.

For the National Federation of ICI and CAFI Employees Union : Shri Anchan, Advocate.

Bombay, the 8th day of April, 1991

#### AWARD

The Central Government have by their notification dated 13-8-1987 as amended by a subsequent notification of 29-12-1987 referred the following industrial dispute for adjudication :

"Whether the pension formula governing the present pension scheme introduced by the management of the I.E.L. Ltd. for its employees in all its establishments in the country needs revision in so far as it does not take into account the cost of living as a factor in the determination and whether the scheme in the way it is being implemented is discriminatory in its application to different categories of pensioners. If so, what is the relief to which the workers are entitled?"

2. Initially my learned predecessor Shri Justice Jamdar was appointed on the Tribunal. He retired in November 1989. Thereafter the Central Government issued a fresh notification on 10-1-1990 for my appointment.

3. I.E.L. Limited is the present name adopted by the erstwhile Indian Explosives Limited with effect from 12-7-85. Indian Explosives Limited was promoted as a company in 1954 pursuant to a declaration of intention between the Government of India and the Imperial Chemical Industries (India) Limited, Imperial Chemical Industries (India) Ltd. had set up three subsidiaries in India : (i) The Alkali and Chemical Corporation of India Limited in 1937, (ii) Indian Explosives Limited in 1954 and (iii) Chemical and Fibres of India Limited in 1961. By 1978 the main Company had changed its name to Crescent Dyes and Chemical Limited. In October 1982, the Crescent Dyes and Chemicals Limited, the Alkali and Chemical Corporation of India Limited and the Chemicals and Fibres of India Limited were amalgamated with the Indian Explosives Limited. As already stated the name of the Indian Explosives Limited came to be changed to IEL Limited with effect from 12-7-1985. I.E.L. Limited (hereafter, 'the Company') is a subsidiary of Imperial Chemical Industries, P.L.C., which is a Company incorporated in England.

4. The Federation of ICI and Associated Companies' Employees' Union, Calcutta (hereinafter 'the Federation') is a Federation of 12 Trade Unions, registered under the Trade Unions Act since 1953. The Company has its factories at several places in India, namely Rishra (West Bengal), Gomia (Bihar), Thane (Maharashtra), Sewree (Bombay), Panki (U.P.), Kanpur, Fnnore (Tamil Nadu) and Hyderabad. It has also its office establishments at Calcutta, Bombay, Delhi and Madras. The present dispute was originally being espoused by the Federation on behalf of the Company's Workmen. My learned predecessor has impleaded the Association of Pensioners of I.C.I. group of Companies, Bombay, (hereafter 'the Association') by his order dated 10-6-1988, after overruling the Company's objection that the pensioners have no locus standi in the present dispute. This order is appended to this award as Appendix A. So also are impleaded a few other Unions by consent of all parties, that is to say CAFI Employees Union who have substantial membership amongst the Company's Workmen in Thane Factory, National Federation of I.C.I. and Associated Companies' Employees' Union who have membership amongst Workmen at Rishra, Calcutta, Delhi, Kanpur and Gomia, I.C. Friends Social Circles at Delhi and Calcutta and the I.C.I. and Associated Companies Retired Staff Union, Madras, all of which represent Pensioners. All these Trade Unions have taken a common stand through their statements of claim. The company has also filed a common written statement.

5. The Company had raised two preliminary objections, which my learned predecessor has rejected by his order dated 21-8-1989. A copy of these findings are appended to this award as appendix B. These objections were : (1) the reference is bad in law for the reason that pension is not an item recognised by either Schedule II or III to the I.D. Act and as such the Tribunal has no jurisdiction to entertain

the reference; (2) At any rate, the erstwhile pensioners are not 'Workmen' within the meaning of the term as defined in the Act and the dispute relating to their demands cannot be called an industrial dispute. For this reason also the Tribunal will have no jurisdiction to adjudicate upon it. Justice Jamdar has rejected both these objections. With respect I am in agreement with the findings and reasons given by him. I shall, therefore, not again take up these objections for fresh decision. The learned Presiding Officer has stated the material facts succinctly in his order. It will be of advantage to peruse that order at this stage in full. Here I may state that prior to 1-1-1961, there was no regular Scheme of Pension for the Workmen; only retiral benefits of Contributory Provident Fund and Gratuity were available to them. The Company used to give pension to some Workmen, but that was in its absolute discretion and on compassionate grounds. As a regular condition of service, a pension scheme was introduced for the first time with effect from 1-1-1961, pursuant to a settlement dated 11-12-1961 arrived at before the Industrial Tribunal, Delhi in Reference No. 232 of 1961. The formula according to which the pension was to be calculated is given in para 2(a) of Appendix B. There were subsequent revisions of the Pension Scheme a number of times. The last one is effective from 1-4-1985. The details of these revisions are given in paras 2(b) to 2(k) of Appendix B. It will be of advantage to reproduce the original pension formula verbatim:

$$\text{Monthly Pension} = \frac{1}{12} \times \left\{ \frac{A \times B}{C} - D \right\} \text{ where,}$$

A = number of completed continuous months of service subject to a maximum of 420 months (in the case of those employees whose age of retirement is 55 years), 450 months (in the case of those employees whose age of retirement is 58 years), or 480 months (in case of those employees whose age of retirement is 60 years) respectively.

B = Annual average of salary and dearness allowance for the last 84 months immediately preceding the date of retirement.

C = 840 where the age of retirement is 55;  
900 where the age of retirement is 58;  
960 where the age of retirement is 60;

D = Annuity value of the combined Provident Fund accumulations and Gratuity of the employee at such rates of annuity as may be declared from time to time by the Life Insurance Corporation of India. Subject to the provisions of Rule 16, the minimum pension for an employee who is a member of subordinate staff at the time of his retirement shall be Rs. 20 per month, and the minimum pension for an employee who is not a member of subordinate staff at the time of his retirement shall be Rs. 45 per month."

6. I do not think it necessary to give all the details of the several revisions, which are available in para 2 of Appendix B. Special note may however be taken of two revisions which became effective from 1-12-1979 and 1-4-1985 and are given in paras 2(g) and (j) respectively. The fact to be noted is that in the 1-12-1979 revision, a new alternative formula is introduced for computation of pension @ 1.35% of the pensionable salary for each year of completed service, subject to a ceiling of Rs. 1000. In the revision effective 1-4-1985, the percentage was raised to 1.5% and the ceiling to Rs. 1500. In both revisions, pensionable salary is to mean the last drawn basic salary without any linkage with D.A.

7. The two core grievances of the Workmen are reflected in the text of the Industrial Dispute reproduced in the opening para of this Award. The first is that the pension formulae are not linked with the rise in cost of living. The second grievance is that the pension scheme suffers from invidious discrimination against them, vis-a-vis the Management staff. Even amongst the Workmen, arbitrary discrimination has been made between those who retired before 1-1-1961 and thereafter, and also amongst those who subsequently retired on different dates. Then the widows/widowers of Pensioners (hereafter for short 'the widows') have been treated differently.

The details of the alleged discrimination will be borne out from para 8 below, where I am reproducing the demands of the Workmen verbatim and also from paras 28 to 37 infra, where I shall be discussing the various grounds of the alleged discrimination. The Workmen point out that the Company enjoys excellent financial resources to do justice to all Workmen, including all pensioners and their Wids, irrespective of the dates of their retirement and link the pension formula with the spiralling rise in the cost of living.

8. I now reproduce the demands of the Workmen from the prayer clause of their statement of claim:

- (i) The existing pension scheme should be substantially revised and the pension should be paid at the rate of 50% of the last drawn basic salary and dearness allowance thereon, of the employee at the time of retirement and the dearness allowance should be linked with the dearness allowance scheme prevailing in the Company from time to time, so as to compensate the pensioners adequately for the rise in the cost of living and rise in prices after they retire.
- (ii) There should be no discrimination in the payment of pension on the basis of the date of retirement and all revisions made in pension from time to time should be made applicable to all the pensioners.
- (iii) All employees who have retired prior to 1-1-1961 from the Company should be eligible for pension on the same lines as those who retired on or after 1-1-1961.
- (iv) All widows/widowers of employees or of pensioners who have retired prior to 1-1-1961 and all widows/widowers of the pensioners who have died prior to 1-6-1980 should be eligible for pension on the same lines as those widows/widowers of the pensioners who have died on or after 1-6-1980.
- (v) Widows/Widowers of employees or pensioners should be paid pension at the rate of 50% of the pension payable to the deceased employees or pensioners concerned as demanded in sub-para (i) above and revisions made in pension from time to time should be made applicable to all the widows/widowers.
- (vi) The period of 20 years' service for the purpose of eligibility of pension should be reduced to 15 years' service and all employees including ex-employees who have completed service of 15 years' and more and who were or are not able to complete 20 years of service on account of reaching the age of retirement or expiring while in service or being mentally or physically disabled to continue further in service and the widows/widowers of such employees, should be eligible for pension on the same lines as the other employees or the widows/widowers of such employees.
- (vii) The pension should be rationalised and the discrimination should be removed.
- (viii) The revised pension scheme should be effective from 1-1-1982.

9. As the efforts made by the representative Unions of the Workmen since 1973 and the conciliation proceedings initiated by the Deputy Labour Commissioner, West Bengal did not bear any fruit, the Central Government ultimately referred the industrial dispute to this Tribunal for adjudication as stated in the opening paragraph of this Award.

10. Apart from the preliminary objections to the maintainability of the reference and jurisdiction of the Tribunal which have already been disposed of by Jamdar, the Company has raised the following principal grounds on merits to resist the demands of the workmen. I am putting them in their own words from part V of their written statement:

- "(i) the reference of a single terms and condition of service, namely pension, to the National Tribunal is contrary to the principle of industry-cum-region laid down by the Supreme Court in resolving disputes under the Industrial Disputes Act;



- (ii) the pension scheme of the company is the most liberal of the pension schemes in force in any company in India and there is no justification for granting any higher pension,
- (iii) the considerations applicable to the pensions payable to Government servants are not applicable to the employees in the private sector whose terms and conditions are altogether different and incomparable and who are situated differently. Unequals cannot be treated equally so as to violate the basic concept of 'equality'.

11. The Workmen have not adduced any oral evidence. The Management have examined Shri Jejurikar, Chief Executive, Personnel, stationed at Calcutta. In lieu of chief examination, he has filed two affidavits dated 11-1-1990 and 9-7-1990, exhibited as Ex. M-8. He has been cross-examined by Shri Dudhia for the Workmen. The witness has given the break-up of the total of 8000 employees of the Company. Of these about 550 belong to the Management staff and the remaining 7450 to the Non-management staff. The latter category consists of two branches : (a) about 6950 who are workmen within the meaning of the Industrial Disputes Act and (b) about 500 who do supervisory work and are not Workmen as defined in the Act. The pay structure for both categories of the Non-management staff is the same. Here of course, as stated above, we are concerned within Workmen including their Wids only and the Award will not be applicable to category (b). Shri Jejurikar has affirmed that the previous settlements were worked out on the Industry-cum-Region principle. According to him, in the private sector (excluding Banks) the pension scheme of the Company for Workmen is perhaps the best. He further affirms that the Company has reached a stage where it can no longer increase its financial burden? He concludes his chief examination with the revelation that the Company has in fact incurred a huge loss of 16 crores of rupees in the six months ended September, 1989. Both sides have filed a number of documents in support of their respective cases and all of them have been exhibited by consent. The Workmen have not led oral evidence. Obviously they rely on the documentary evidence and the material that has been brought forth in Jejurikar's cross-examination.

12. Before undertaking evaluation of the evidence and material facts in dispute, it will be worthwhile to clear two or three basic aspects, which will help us in appreciating and weighing the facts in the right perspective. These aspects are : the concept of pension; difference, if any, between pension retirees and Provident Fund retirees; the category under which the present workmen (which term includes eligible pensioners and Wids) fall and the submission of Shri Khambata of the Company that with regard to the employees in private sector, considerations under article 14 or under part IV of the Constitution do not arise, unlike cases where the state is the Employer.

13. The concept of 'pension' is not easy to define. One can however get a fairly good idea about it from the report of the Fourth Pay Commission—hereafter 'the Commission' (particularly Chapter II) and the well-known leading decision of the Supreme Court in A.I.R. 1983 S.C. 130 D.S. Nakara vs. Union of India. Although, as rightly stressed by Shri Khambata, the precise question before the Pay Commission and the Supreme Court was restricted to Central Government Employees, the concept of pension as such was primarily examined by them in the broader context of the employer-employee relationship in general. Whatever I am saying here should be read in the light of my other observations in paras 14 to 16 and 29 infra relating to the sweep of Nakara and other decision of the Supreme Court JT 1990 (3) S.C. 173 Krisen Kumar vs. Union of India. In the eighteenth century and earlier, pension was merely a source of income. In his dictionary of 1755, Dr. Johnson said: 'In England it is generally understood as meaning pay given to a State hireling for treason to his country'. The study of the Commission disclosed that the meaning of 'pension' has not been static and has changed considerably with passage of time. In the words of the Commission, "over the years, the meaning of the term has become more

and more generous in the sense of providing not only pecuniary advantage to the superannuated employee, but payments for widows and other dependants." (para 2.15). Then in para 2.16 the Commission noted the definition of 'pension' contained in the Century Dictionary and evolved its own definition : 'A pension is a series of periodic payments to a person, usually payable monthly for life for past service of himself or another'. The Commission has observed that this definition covers not only ordinary superannuation pension, but other retiring pensions, invalid pension, compensation pension, compulsory retirement pension, disability pensions and family pensions. (para 2.16). (underlining mine). The underlined words suggest that the term will obviously include pension payable to Wids also for the service rendered by their spouses.

14. Nakara gives a lucid exposition of the concept of pension as it has grown from the beginning to its present form in a Welfare Socialist State like India. After tracing the journey of 'pension' from antiquity to its present stage, in paras 19 to 30 of the judgement Justice Desai, who spoke for the five Judge Bench identified the three main attributes of 'pension'. These are: (a) pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer, but that it creates a vested legal right enforceable at law. (b) pension is not an ex-gratia payment, but it is payment for the past service rendered and (c) pension is a social welfare measure rendering socio-economic justice to those who in the hey day of their life ceaselessly toiled for the employer on an assurance that in their old age they would not be left in lurch. Indeed as implied in the judgement and expressly recognised by the Commission in its report, the view is gaining ground, which treats pension as part of the wages proper. You may call them deferred wages. This doctrine considers a pension as a compensation paid to the employee for the gradual destruction of his wage earning capacity in the course of his work. Retirement being a proper charge against the employee's entire period of active service, the employer should make contributions towards the employee's eventual retirement during each year of service of the employee, in a manner similar to that in which he annually sets aside a reserve against depreciation of his plant and machinery. Pensions, according to this Doctrine, are an absolutely indispensable complement of wages.

15. The survey above should give a fairly good idea of the concept and conspectus of pension in the modern setting of a Socialist State. At this stage it will be worthwhile to dispose of the submission of Shri Khambata that Nakara and the Commission's Report deal with the case of Central Government employees where the Employer is the State as defined in Article 12 of the Constitution and as such references to article 14 and the provisions of Directive Principles of State Policy as enunciated in Part IV of the Constitution are entirely irrelevant for the purposes of the adjudication before me. That article 14 and Part IV of the Constitution do not apply to the Company in the present case for the obvious reason that it is not 'State', is a proposition on which there could not be two opinions. But that is not the finale. It will also be relevant to see what is the object of industrial adjudication undeniably, it is promotion of industrial peace and harmony. In any endeavour to achieve this object, fairplay and justice will have an important... nay, the focal... place. So also these are the twin pillars on which the edifice of the Rule of Law rests in all its majesty in any civilised State. The bedrock of Article 14 is 'the Supremacy of the Rule of Law', which Doctrine takes within its sweep not only a private person, but also the State. While the State has the sanction from the constituent power is necessary against the State also (who is both the sole Maker and Enforcer of Law), obligating it to ensure that Laws that it makes and the way it enforces them are just and fair to all persons, subject to its governance. This object is effectively achieved, by enshrining in article 14 the Mandate against the State, prohibiting it from denying to any person the equality before Law and the equal protection of Laws, and elevating this Right of a private person to the pedestal of a Fundamental Right.



16. So there is no difficulty in agreeing with Shri Kham-bata that article 14 and the Directive Principles of State Policy do not apply to the present Company. But then Industrial adjudication being part of the law of the land is certainly binding on the Company. And, if considerations of fair play and justice in any industrial dispute require adoption or adaptation of any particular approach/expe-dient/remedy commended in Nakara or indeed any other decision it shall certainly be open to me nay, it will be my duty—to do the needful in the interests of Industrial peace and harmony. I am afraid I have laboured too long on such an obvious point, but I had to do that, because both sides have laid great stress on distinguishing Nakara (relied upon by the Workmen) and Krishen Kumar (relied upon by the Company).

17. The next point to be clear about is the difference between the Pension retirees and P.F. retirees. The distinction is clearly explained in Krishna Kumar by the Supreme Court. The subject is dealt with by the Commission also in Chapter IX of its report. In case of employees to whom a Pension scheme applies, the obligation of the employer to pay the pension begins on the day of the employee's retirement and continues till his death, or even thereafter. If under the rules concerned, the employees' spouse or other dependant is entitled to any pension. As against this under Contributory Fund Scheme, there is a Fund to which the employee has to contribute a minimum percentage of his wages and the employer has to make contribution at a matching or a given percentage of the employee's wages. In such a case, the obligation of the employer begins as soon as the Account of the employee is opened and ends with his retirement when his rights qua the employer in respect of the Provident Fund is finally crystallised and thereafter no legal obligation continues. In the case before me the Scheme that was in force upto 30-11-1979 contemplated payment of pension computed according to the formula extracted in para 5 supra. The elements that figured in computation were (a) basic salary of the employee during the last 7 years of his service, (b) dearness allowance drawn by him during that period and (c) the annuity value of the P.F. and gratuity accumulations. The second formula brought into force with effect from 1-12-1979 and revised from 1-4-1985, contemplates computation of Pension as a particular percentage of the basic salary alone.

18. An examination of both formula will show that the Scheme is basically a pension Scheme. The element of Provident Fund Contributions becomes material for one of the formulae only and that too for the restricted purpose of deducting the annuity value from the total amount of the pension. The Company is therefore not right in its suggestion that the Scheme is not a pension Scheme and as such the Company's obligation to retirees comes to an end with the date of their retirement. The scheme is basically a pension scheme and the Company's obligation to the retirees in fact begins on the date of his retirement and continues till his death and also in favour of the spouse after the retiree's death, in cases where the rules provide therefor. I shall deal with the question of widows below in due course.

19. One thing is clear here that the settlement of 11-12-1961 between the parties was reached in a pending reference before the Industrial Tribunal, Delhi and was formally recognised by the award dated 15-12-1961 (Ex. W-5). So there is absolutely no room for even a lurking doubt that retirees from 1-1-61 have a vested right to claim the pension from the Company, which is enforceable at law. The subsequent revisions also have the same effect. Payment of pension in case of employees who retired before 1-1-1961 was however totally according to the sweet will of the Company, and although the Company did extend that favour to some of such retirees or their widows, I do not think it created any legal right in favour of the recipients. I am making these observations, because the workmen are inter alia claiming a relief that retirees prior to 1-1-1961 and their widows may also be held entitled to pension. This claim cannot be conceded.

20. Before proceeding further, it will be necessary to define the legitimate scope of the reference, because some of the

reliefs claimed by the Workmen may, as contended by the Company, fall out of it. I have reproduced the text of the industrial dispute verbatim in the opening paragraph of this Award. Reading it as a whole, it is obvious that there is no warrant discernible in the text empowering this Tribunal to evolve an altogether new formula, totally dissociated from the present one, after considering all possible relevant factors. The mandate is to keep the original formula alive in its focal position and then to examine and decide if the formula needs any revision, "in so far as it does not take into account the cost of living as a factor in its (of the pension) determination". The latter part of the reference relating to the alleged discrimination is again linked with its first part, namely the working of the pension scheme, in its application to different categories of pensioners. The second part runs, "whether the scheme in the way it is being implemented is discriminatory in its application to different categories of pensioners". (underlining is mine). 'the scheme' undeniably means the Scheme of 1961 (as amended from time to time) framed in respect of Non-management staff. It cannot mean any other Scheme, which may be applicable to Management Staff. Then in the second underlined phrase 'in its application', the pronoun 'its' has the above-mentioned scheme only (that is, applicable to Non-management staff) as its antecedent. So the aspect of discrimination is to be studied as obtaining amongst different categories of pensioners under the Scheme. I am clear that the legitimate scope of the reference is not wide enough to cover the question whether the operation of the Management Staff Scheme results in any invidious discrimination against the Non-management Staff. When I say this, I may not be taken to mean that materials related to Management Staff Scheme could not be relevant for any purpose whatever. They would be certainly relevant for certain purposes, for example, to prove the financial capacity of the Company to afford more funds for improving the Non-Management Staff Scheme. To put tersely, my job in the present adjudication is to see whether (i) any revision of the Non-management Staff Pension Scheme is necessary, in so far as it does not take into account the cost of living as a relevant factor; (ii) whether the implementation of this scheme as amended from time to time results in any invidious discrimination amongst the different categories of pensioners under this very Scheme, and (iii) the reliefs which ought to be granted to the Workmen, depending on the findings on points (i) and (ii).

21. The decks stand now cleared for considering items involving evidence. I shall start with the Management's plea that Industry-cum-Region principle will apply, and if this is done the Company's pension scheme will be found most attractive. Jejurikar has stated in his chief examination that the principle of Industry-cum-Region was kept in view while finalising the previous settlements. According to him, the scheme operated by the Company is most beneficial to the Workmen, compared to a few schemes that are working in other Companies in the Private Sector (excepting the industry of Banking). The Industry-cum-Region principle is too well-known to be recapitulated in detail. I may only refer to one leading case of the Supreme Court, reported in 1964 1 LLJ. 342 Greaves Cotton and Coy. vs. their Workmen. According to this principle, where there are a large number of industrial concerns of the same kind in the same region, it would be proper to put greater emphasis on the industry part of the industry-cum-region principle as that would put all concerns on a more or less equal footing in the matter of production costs and, therefore, in the matter of competition in the market. However where the number of comparable concerns is small in a particular region and therefore the competition aspect is not of the same importance, the region part of the formula assumes greater importance.

22. Jejurikar admits in so many words in para 9 of his cross-examination that he is not able to state how this principle was applied in framing the original Pension Scheme and its subsequent nine revisions. He tried to explain that the terms and conditions of Service obtaining in Calcutta concerns like I.T.C., Dunlop, Shaw Wallace, Chloride India etc. were considered for comparison. However when he was pressed further, he conceded that the aforesaid companies dealt in different products, that all the revisions were made by the Company on an All-India basis, and finally that they were not based on Industry-cum-Region formula. In view of these admissions of Jejurikar and even otherwise undisputed position that there are no concerns comparable to the Company in the entire Country, the question of Industry-cum-

Region principle does not arise at all the present matter. I, therefore, do not embark on the discussion of various rulings cited on behalf of the Workmen and the Company.

23. On the financial capacity of the Company also, there is no doubt that it is in a very good financial condition. Jejurikar has referred to this aspect in para 8 of the chief examination obtaining in his affidavit of 11-1-1990. According to him, the Company has now reached a stage where it can no longer increase its financial burden. This is what he states in para-8 of his affidavit.

"The company has now reached a stage where it can no longer increase its financial burden. The company has lost its competitive strength in the fields of fertiliser, polyester staple fibre which account for the major portion of the company's income and in other fields also, due to increased competition, profits have declined considerably. The percentage of over-heads by way of wages and retirement benefits in relation to the total turn-over is higher than in any other comparable concern in India. The total turn-over and profits of the Company have started declining since 1985 while its over-heads by way of wages and retirement benefits are continuing to increase. This is evident from the annual reports of the company which contain the balance sheet and profit and loss accounts for the accounting year. In fact, according to the unaudited accounts for the last six months ended 30 September, 1989, the company has incurred a huge loss of about Rs. 16 crores. A copy of the said unaudited financial results is annexed hereto and marked Annexure 'B'."

24. The Workmen have filed published balance sheets of the Company for the years 1982 to 1989 and financial statistical record of the Company from 1973-1989 as printed in the Company's Annual Report of 1989 (Ex. W-65 and 66). These show the company's financial position is pretty sound all along. As the facts are, it is one of the most diversified companies and is dealing in Chemicals, Fertilisers, Paints, Pharmaceuticals, Polyester Fibres etc. In terms of fixed assets, it is the largest multinational Company in India. Jejurikar mainly relied on the fact that the unaudited accounts for the six months ended September 1989 show a loss of 16 crores. The ostensible figures on the paper on a superficial view to give the impression of a company in a bad state. However, when all the facts are considered together, the picture is quite to the contrary. Jejurikar had to admit in the cross-examination that a huge amount of Rs. 60 crores was spent on modernisation of the Polyester Fibre plant located at Thane. It has started production on 17-3-1989. He has further admitted that the Company has disposed of plants at Rshira (West Bengal) and Panki (near Kanpur), which were running at a loss. The Company owns a building at Bombay, called Crescent House. It is an admitted position that the Company has sold it at for Rs. 27 crores at a profit. The purchaser has already paid 19 crores out of the price. Even for the year for which Jejurikar has painted a depressing picture, this is what the Chairman had to say :

"The last eighteen months have been a period of recovery and consolidation for us. Along with the pursuit of recovery, the company has addressed itself to the strategic objective of building up a more resilient business portfolio. The closed-down polythene plant at Rishri has been sold at a profit, a new state-of-the-art fibres unit has been built in Bombay and the joint venture with Nalco Chemical Company, USA, for Specialty Chemicals at Rishra launched. A determined thrust is being given to new projects with investments varying from Rs. 10 crores to Rs. 150 crores and a number of applications for Letters of Intent are being pursued with the Central Government."

25. Jejurikar has admitted that the Company has further revised the pension scheme for the Management staff with effect from 1-4-1990. Indeed he goes further to say in his re-examination by Shri Khambatta, that the Company would have revised the pension provisions for the Non-management staff also from that date, but for the fact that this Reference is still pending. This practically clinches the issue.

I had suggested to the Company to present their proposals, but there was no response from them. I am satisfied that finance is not at all a problem for the Company for further revision of the Scheme.

26. Here I may refer to the Company's refusal to file certain documents showing the details of disbursement of pension to the Management Staff, on the ground that it is confidential information. I had told them that the information could be kept confidential, as contemplated by section 21 of the Act. Even so the Company were not ready to reveal the same. Eventually, I left the matter there with the observation that the Workmen could request the Tribunal for drawing an adverse inference against the Company for its failure to produce the documents. Shri Dudhia now requests for such inference being drawn. The request is quite legitimate and an adverse inference will have to be drawn that the Company are paying quite attractive sums of pensions to the Management staff and have more than adequate finances at their disposal to absorb the increase in pension expenditure for Non-management staff also. Indeed they have again given a hike with effect from 1-4-1990. Without labouring further, I hold that the Company's financial position is pretty sound to absorb the additional burden of the revision of pension for the Non-management staff.

27. I am going to hold below that the pension scheme needs revision, in order to link the pension with the rise in the cost of living. Before I start discussion on that issue, it will be convenient to dispose of the second part of the Reference, relating to the alleged discrimination amongst the pensioners.

28. The Federation have listed grounds of discrimination in respect of Non-management Staff Pensioners at Ex. W-54. It will be of advantage to reproduce them verbatim.

1. Employees who have retired prior to 1-1-1961 and who have completed 20 years service are not given the benefit of pension scheme introduced which effect from 1-1-1961.
2. Employees who retired between 1-1-1961 and 1-12-1979 are not given the option of Scheme 'A' or Scheme 'B' whichever is more beneficial. The option is given to those who retired on or after 1-12-1979.
3. Those employees who retired during the period between 1-12-1979 and 31-3-1985 get pension on pensionable basic salary of Rs. 1,000 p.m. Those who retired on or after 1-4-1985, get pension on pensionable basic salary of Rs. 1,500 p.m.
4. The Management staff get pensions at 1.75% of the last drawn salary (they are not paid separate basic and D.A.) and they are also given pension even if they have not completed 20 years' service. They also get family medical benefits upto Rs. 5,000 per year. This is not extended to Non-Management Staff Pensioners.
5. Non-Management Staff who have completed 15 years' service but could not complete 20 years' service at the time of retirement or on account of death, they or their widows are not eligible for pension. However, under the Voluntary Retirement Scheme, employees who have completed 15 years' service are eligible for pension.
6. Discrimination regarding minimum pension is existing. Service Staff get minimum pension of Rs. 150 p.m. and General Staff of Rs. 200 p.m. with effect from 1-4-1985.
7. In addition to the removal of discrimination, the Federation has demanded pension to be linked with the rise in the Working Class Consumers' Price Index. It is also demanded that pension to be calculated on the total salary, basic and D.A."

29. While dealing with the implications of Nakara qua article 14 and Part IV of the Constitution, I have stated that while these provisions do not apply to the present Company for the simple reason that it is not 'State', the general principles of fairness and justice which will promote industrial harmony and peace will certainly apply to

Industrial adjudication. I have already attempted to define the scope of this reference in para 20 supra. Items 1 and 4 clearly fall outside the scope of the reference. Even otherwise the facts adumbrated in these two items do not attract the vice of invidious discrimination. There can be no justification for comparison between the Management and Non-Management staff for the purposes of determining their conditions of service. I hold that items 1 and 4 do not make out any invidious discrimination, apart from the fact that they fall outside the scope of this Reference.

30. A close scrutiny of item 2 will also show that it does not fall within the scope of the reference. Formula 'A' was introduced for the first time in the modification of November 1982, effective 1-12-1979. This formula provides for computation of pension at the rate of 1.35% of the pensionable salary for each completed year service. Pensionable salary is defined for this purpose as the last drawn basic salary drawn by an employee, provided it does not exceed Rs. 1000 p.m. As the reference is not for revision of the wage structure as a whole, but restricted to the factor of the rise in the cost of living and further Formula 'A' refers to basic salary only, I think it will not be permissible to undertake this item for adjudication. After all, Scheme 'B' is being linked with the cost of living and this would adequately meet the ends of justice for pre-December 1979 retirees.

31. Further it has to be appreciated that the scheme 'A' was introduced for the first time with effect from 1-12-1979. While fixing up the conditions for eligibility to come under this scheme, there would not be anything unjust or unfair on the part of the Employer (in a private sector, particularly) to prescribe that it will be restricted to only those who retire on or after its introduction. The question that figures in item No. 3 is different. There the scheme had actually commenced earlier on 1-12-1979 and by the subsequent amendment, distinction was sought to be made between retirees before and after 1-4-85. So far as the present item is concerned, it is difficult to appreciate how earlier retirees (pre-1-12-1979) stand to lose, because their basic salary presumably would be for less than those who retired on or after 1-12-1979. So even on merits there is no good case for making available scheme 'A' to the retirees prior to 1-12-1979. Item No. 2 stands rejected.

32. The rationale of item 5 also cannot be accepted. The Pension Scheme under reference and the Voluntary Retirement Scheme are two entirely different systems. There can be no legitimate comparison between the two, qua the question of invidious discrimination. Even otherwise 20 years minimum service for being eligible for ordinary pension cannot be dubbed as unjust or unfair. Indeed this item cannot properly fall within the scope of this Reference.

33. There is however substance in the Federation's case adumbrated in items 2, 6 and 7. I shall take up item 3. Now here the Company had already initiated the scheme 'A' with effect from 1-12-1979. A workman who had retired on any day between 1-12-79 and 31-3-85 was getting the benefit of scheme 'A' on the basis that he was entitled to get his pension computed @ 1.35% of his basic last drawn salary. As against this, if any other workmen happened to retire on 1-4-85 or thereafter, he would get his pension computed at the rate of 1.5% of his last drawn salary. Then for the first category retirees, the ceiling on the basic salary would be Rs. 1000 while for the 1 after category it would be Rs. 1500. Thus the retirees belonging to the second category would have twin benefits—a higher percentage of basic salary and also a higher ceiling. This discrimination in my opinion cannot be justified as equitable or fair on any principle. Indeed as the real value of the rupee has been declining steeply with passage of time, the injustice resulting to the pre-April 1985 retirees becomes all the more glaring. There is thus invidious discrimination against the two categories of the retirees as indicated in the item 3. All those who have retired on or after 1-12-1979 shall be entitled to get their pension computed @ 1.5% of their last drawn basic salary subject to the ceiling of Rs. 1500. Arrears will however be payable only with effect from 1-4-1985 on which date the last modification came off. I may also make it clear that further improvements, if any, in Scheme A of computation formula will automatically apply to retirees with effect from 1-12-1979.

34. Item 6 pertains to the minima of pension fixed—sub-staff Rs. 150 and for general staff Rs. 200 p.m. These minima are being raised by me to Rs. 300 and Rs. 350 respectively for the reasons stated in paras 43 and 44 infra. This raise is being given not on the ground of invidious discrimination, but because of the progressive erosion of the real value of the rupee.

35. Item No. 7 in fact forms the first part of the Reference. It is not directly linked with the plea of discrimination as such. I am dealing with this item independently in paras 38 onwards.

36. Ex. W-55 are the items, which according to the Workmen, operate in discrimination against widows of pensioners. They are reproduced below for ready reference.

- "1. Widows of employees who have retired prior to 1-1-1961 are not eligible for pension.
2. Widows of pensioners who died prior to 1-6-1980 are not paid pension while the widows of pensioners who died after 1-6-1980 are paid pensions.
3. Widows of employees who retired after fifteen years' service under Voluntary Retirement Scheme are eligible for pension while the widows of employees who expired before or who retired on reaching the age of retirement without completing 20 years' service are not eligible for pension.
4. Widows of Management Staff Pensioners who have not completed 20 years' service are eligible for pension."

37. I think all the four items will have to be rejected, as being beyond the legitimate scope of the reference, and even otherwise on merits. When the Workmen themselves are held not entitled to claim pension, if they have retired prior to 1-1-1961, obviously their widows cannot claim more. So far as item No. 2 is concerned, in substance, the action of the Company means that they have introduced the Family Pension Scheme (entitlement of widows to pension will obviously fall under this category) from a particular date that is 1-6-80. I think this they are certainly entitled to do, particularly where the employer belongs to the Private Sector. I do not find anything unfair or unjust in this. Item No. 3 is inadmissible for the reason that the two categories of pensioners—voluntary and ordinary—are basically different. The aspect has already been dealt with by me at some length in para 32 supra. Again item No. 4 must fail for the simple reason that widows of Non-Management staff are not comparable with widows of Management Staff. This is all regarding Ex. W-55.

38. This takes me to the main branch of the dispute, namely whether the present pension scheme needs revision, in so far as it does not take into account the cost of living as a factor in its determination. The present formula as in force from 1-4-1985 has two schemes in operation. Scheme A fixes the pension as a certain percentage of the last drawn basic pay, subject to a ceiling of Rs. 1500 please see para 6 supra. Under Scheme B, the amount of pension is to be worked out according to the formula extracted in para 5 supra with 720 substituted for 3 divisors provided in ingredient 'C' and an overall increase of 40% of the amount of pension. This is with regard to Workmen retiring on or after 1-4-1985. For earlier pensioners' details may be seen in para 2 of Appendix B. The minimum pension is fixed at Rs. 200 for general staff and Rs. 150 for sub staff irrespective of the date of retirement.

39. A mere look at the formula will show that neither scheme provides for automatic raise in the pension amount, which is linked to the rise in the cost of living. Scheme A takes into consideration only basic salary and dearness allowance has no virtual linking with it. In scheme B, the ingredient B is defined as the annual average salary and dearness allowance for the last 84 months immediately preceding the date of retirement. Apart from this, there is no linkage whatever with the ever growing rise in the cost of living, except perhaps with the ad hoc increase of 40% of the resultant amount of pension. Now the Company has not put forth any data to reveal the mechanics of the ad hoc increase. Every one knows how steep the rise in prices has been of late, say during the last 3-4 years.

Indeed the painful pinch is felt practically every month. In such an exceptional situation, ad hoc increases hardly afford any viable solutions. The matter cannot certainly be left to the unguided discretion of the Management. An expedient ought to be evolved, to ensure automatic raise in the total amount of pension under scheme B, having a reasonable nexus with neutralisation of the spiralling rise in the cost of living. Some provision for payment of dearness relief on the amount of pension is called for.

40. For the purposes of Ingredient B, salary and dearness allowance earned in as long a span as 7 years has to be taken into consideration for arriving at the annual average. This is too long a span to be of any real significance for effecting even a marginal neutralisation of the rise in the cost of living. On considering all factors, I think it will be just and fair to reduce the period of 7 years to 12 months immediately preceding the date of retirement.

41. The next factor to be considered is whether we should retain DA in ingredient B or clip it to basic salary only, now that provision is being made for payment of Dearness Relief on the amount of pension according to the rate of DA current for the month for which the pension is paid. Here we are devising a formula not only for recent retirees but for even those who had retired 30 years back, with comparatively far meagre basic salaries. The more realistic and fair approach will be to retain the element of Dearness Allowance in ingredient B. Then the Dearness Relief will naturally be the difference between the amount of DA payable on the amount of pension in the month for which the pension is to be determined and the DA that would have been payable on the amount of pension according to the rates in force on the date of retirement. The revised formula would then be—

$$\frac{1}{12} \times \left\{ \frac{A \times B}{720} - C \right\} + DI - D2, \text{ where}$$

A = Number of completed continuous months of service subject to a maximum of 420 months (in the case of those employees whose age of retirement is 55 years), 450 months (in the case of those employees whose age of retirement is 58 years), or 480 months (in case of those employees whose age of retirement is 60 years) respectively.

B = Salary and dearness allowance during the last 12 months immediately preceding the date of retirement.

C = Annuity value of the combined Provident Fund accumulations and Gratuity of the employee at such rates of annuity as may be declared from time to time by the Life Insurance Corporation of India.

DI = Dearness Allowance payable on the amount of

$$\frac{1}{12} \times \left\{ \frac{A \times B}{720} - C \right\}$$

for the month the pension is to be computed.

D2 = Dearness Allowance that would have been payable on the amount of

$$\frac{1}{12} \times \left\{ \frac{A \times B}{720} - C \right\}$$

according to the rates prevailing on the date of retirement.

42. The next question is whether any modification should be undertaken with regard to Scheme A, which takes into consideration only basic salary last drawn. There is no data before me to provide any rational modalities to modify this Scheme. Even otherwise, this exercise may not be necessary, in view of the position that under the present dispensation, pension is to be calculated according to the Scheme which is more beneficial to the Workmen. It may be, in cases of some workmen, the present scheme (basic salary formula) or scheme B (annuity linked formula with 40% gross increase) may be more beneficial than the formula I have worked out above. So the best course will be to keep the two formulae intact, and have the new formula as an addition. The new formula will be known as Scheme C. Pension will be computed according to any of the three formulae that may be most beneficial to the pensioner concerned subject of course to the minima of pension that would apply to all the three schemes.

43. Now I take up the question of the minimum pensions payable to a pensioner. The Workmen have filed a statement at Ex. W-68 giving a break up of pensioners, range-wise. It will be useful to reproduce this data here.

Number of pensioners drawing monthly pension upto Rs. 150	547
from Rs. 151 to Rs. 200	628
Minimum pension.	1175
From Rs. 201 to Rs. 300	434
Rs. 301 to Rs. 400	407
Rs. 401 to Rs. 500	212
Rs. 501 to Rs. 600	125
Rs. 601 to Rs. 700	85
Rs. 701 to Rs. 800	20
Rs. 801 to 900	38
Rs. 901 and over.	1
	2497

44. It will be seen that about 22% of the total strength of 2497 pensioners are getting pension upto Rs. 150 only, whereas another chunk of more than 25% gets pension between Rs. 150 and 200. Thus virtually every alternate pensioner gets less than the minima. Another 17% and 16% pensioners are in the ranges of Rs. 201—300 and Rs. 301—400 respectively. I am conscious of the Company's contention that they have made available Contributory Provident facilities to their workers, which are more liberal than those prescribed by law. But then we have also to keep in view that so far as employees at lower rungs are concerned, in view of the fast erosion of the rupee's value. The poorer a wage-earner, the faster he is in spending his savings after retirement. After all, the pension formula takes to reduce the pension by the annuity value of the Provident Fund and Gratuity. Considering all factors, I think the minima of Rs. 150 and Rs. 200 provided in the 1982 dispensation deserve to be raised to Rs. 300 and Rs. 350 respectively.

45. So far as widows are concerned, I think the position is still worse. According to the 1982 dispensation, widows are entitled to get 50% of the pension. This will stay, subject of course, to the computation of the pension according to the revisions effected under this Award. As already stated by me above, this facility will be available only to those widows whose spouses were living on 1-6-1980. The minima for them at present are Rs. 100 for general staff and Rs. 75 for substaff widows. Ex. W-68 gives the following break up for the widows.

Number of Widow Pensioners drawing monthly pension upto Rs. 75	185
from Rs. 76 to Rs. 100	108
from 101 to Rs. 200	88
from Rs. 201 to Rs. 300	28
from Rs. 301 to Rs. 400	4
from Rs. 401 to Rs. 500	2
	415

46. The above statistics show that out of 415 widows pensioners, about 45% receive pension less than Rs. 75 and another 26% are in the range Rs. 76—100. I think it will be just and fair to increase the minima to Rs. 150 and Rs. 175 respectively for the two categories.

47. Now the time has come to sum up the findings on different demands of the Workmen and declare the Award.

(1) It is declared that the present pension scheme as in force from 1-4-1983 does not substantially take into account the factor of the cost of living in determination of the pension and as such the Scheme requires to be revised in the manner set out in clause (3) infra.

(2) It is declared that the Scheme is not discriminatory except as stated in para 33 supra.

(3) Pension for Workmen who retired on or after 1-1-1961 or will retire hereafter shall be computed according to any of the following three schemes which may be most beneficial to the pensioner/Workman concerned.

Scheme A : For Workmen who retire on or after 1-12-1979, 1.5% of the pensionable salary for each completed year of service. Pensionable salary will mean the last drawn basic salary of the Workman concerned, subject to the maximum of Rs. 1500.

Scheme B : The existing formula linked with deduction of annuity as may be applicable to the Workman/Pensioner concerned.

New Scheme : As provided in para 41 supra.

(4) The Minimum pension shall be Rs. 300 p.m. for sub-staff and Rs. 350 per month for the general staff, irrespective of the scheme applicable.

(5) The widows/widowers of a workman who has still to retire or of pensioners who have expired on or after 1-6-1980 shall get 50% of the pension worked out according to the provisions of clause (3) supra provided that the minimum pension payable to the widow/widower will be Rs. 150 for the sub staff and Rs. 175 for the general staff.

(6) All the rest of the conditions for eligibility for pension such length of service to be put in etc. will remain unaffected.

(7) Arrears of pension in compliance with the modifications made under this Award shall be payable from 1-4-1985 onwards only.

(8) The Company shall pay the arrears of pension within 4 months of the award becoming effective.

(9) Parties shall bear their costs as incurred.

48. Before parting with the case, I would like to place on record my sincere thanks to S/Shri Dudhia, Khambatta, Habbu and Anchan for their valuable assistance. I regret the delay in making this Award, as I was without any Stenographer for almost 6 months during the material period.

S. N. KHATRI, Presiding Officer

Encl : Appendix 'A' and 'B'.

[No. L-51015/8/86-J&E(SS)]

S. N. BROHMO CHOUDHURY, Jt. Director

(Appendix A to the Award)  
(Forms part of the Award)

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL  
AT BOMBAY

PRESENT:

Mr. Justice M. S. Jamdar, Presiding Officer.

Reference No. NTB-2 of 1987

PARTIES :

Employers in relation to the management of M/s. Indian Explosives Ltd., (IEL),

AND

Their workmen.

APPEARANCES :

For the Management—Mr. R. K. Habbu, Advocate.

For the Federation of ICI and Associated Companies Employees Union—Mr. C. L. Dudhia, Advocate.

For the National Federation of ICI and Allied Companies Employees Union—Mr. M. B. Anchan, Advocate.

Bombay, dated the 10th day of June, 1988

ORDER

Order below the application dated 11th January, 1988 filed by the Association of Pensioners of ICI Group of Companies, hereinafter referred to as the Association :—

1. The Association has filed this application for implead-

ing it as a party to this reference, made by the Central Government for adjudication of an industrial dispute between M/s. Indian Explosives Ltd. (IEL), a private limited company belonging to ICI Group of companies, and their workmen represented by the Federation of ICI and Associated Companies Employees Union, Calcutta (hereinafter referred to as the Federation). The dispute which is referred for adjudication is as follows :

"Whether the pension formula governing the present pension scheme introduced by the management of the Indian Explosives Limited for its employees in all its establishments in the country needs revision in so far as it does not take into account the cost of living as a factor in its determination and whether the scheme in the way it is being implemented is discriminatory in its application to different categories of pensioners. If so, what is the relief to which the workers are entitled?"

2. M/s. Indian Explosives Ltd. (IEL) hereinafter referred to as IEL has opposed the application on the ground that the Association has no locus standi in the present dispute because the pensioners, having retired from service cannot be workmen within the meaning of S. 2(s) of the I.D. Act and hence cannot be made parties to an industrial dispute under the Act; that as the dispute does not relate to the employment or non-employment or the terms of employment of the applicant-pensioners, they cannot be covered by the reference and that the membership of the Association is open also to ex-officers to whom the existing pension scheme does not apply. All the objections deserve to be rejected.

3. A pension scheme was introduced by the company with effect from 1st January, 1961 as per the settlement dated 11th December, 1981 arrived at in the industrial dispute raised by the ICI (India) Pvt. Ltd., New Delhi Employees Union. This scheme was called ICI (India) Employees Pension Benefit Scheme. As per this scheme, the monthly pension was calculated on the basis of a formula. This scheme was arrived from time to time, as detailed in the statement filed at Annexure-9 to the statement of claim filed by the Federation in this reference. It will be seen that the original scheme as well as the revisions made some time prior to 1st January, 1966 as well as those made effective from 1st January, 1966, 1st April, 1975 and 1st October, 1977 were made applicable to the existing pensioners also and the pension payable to the erstwhile pensioners as well as to those who retired after those dates was uniformly increased. Only the revision made with effect from 1st April, 1976 was made applicable only to those workmen who retired after that date. The revision made with effect from 1st December, 1979 was made applicable only to those who retired on or after 1st December, 1979, while the revisions made with effect from 1st June, 1980 and 1st July, 1984 were made applicable only to those workmen who retired prior to 1st December, 1979. The revision made with effect from 1st April, 1985 made separate categories of pensioners who retired prior to 1st December, 1979, those who retired between 1st December, 1979 and 31st March, 1985 and those who retired after 1st April, 1985 and conferred different benefits by way of revision of pension formula for those categories. It is this discrimination between the pensioners who retired before a particular date and those retired after that date is sought to be removed and the instant reference relates to that dispute also. The pensioners therefore are vitally interested in the dispute which encompasses the demand for revision of the pension formula on uniform basis for the benefit of all pensioners, past as well as present.

4. No doubt the Association itself could not have raised the dispute under the I.D. Act but the Federation could have, and has, raised an industrial dispute on behalf of the pensioners. Section 2(k) of the I.D. Act, defines 'industrial dispute' to mean any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person. The term "any person" is wide enough to include past, present and future workmen. It is significant to note in this context that pension scheme referred to above was incorporated in the award given in terms of the settlement, as a condition of service of the workmen. Retrospective revision of the

pension scheme would thus modify the service conditions of the retired workmen. An industrial dispute therefore can be validly raised by the representative of present workmen in respect of applicability of revision of the pension scheme to the pensioners who have already retired from service.

5. There is no express provision in the Industrial Disputes Act which empowers the Industrial Tribunal to add parties to a reference. But such a power can be implication be spelt out from clause (b) of sub-section (3) of section 18 of the Industrial Disputes Act. Section 18(3)(b) lays down that a settlement arrived at in the course of conciliation proceedings under the Act, or an arbitration award in a case where a notification has been issued under sub-section 3-A of section 10-A or an award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on all parties summoned to appear in the proceedings as parties to the dispute, unless the Board, arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause. This provision thus contemplates that proper parties can be impleaded in the proceedings and the settlement, award etc. shall be binding on the party so impleaded. It is not necessary that a party so impleaded must belong to the category of employer or workmen. It must be a necessary or proper party.

6. Moreover principles of natural justice, which are not in applicable to an industrial adjudication, require that a party whose interests are likely to be affected by the adjudication must be given an opportunity of being heard on the dispute involved. As the erstwhile pensioners are interested in the removal of discrimination in the pension scheme and also in uniform revision of the scheme on the basis of cost of living, they must be given an opportunity to plead and to make out a case in support of the demand which is referred for adjudication. As held by the Supreme Court in *D. S. Nakara and others vs. Union of India* (1983 1 Supreme Court cases 305) all pensioners form a class as a whole, and as such have equal right to receive the benefits of liberalised pension scheme and cannot be micro-classified by an arbitrary, unprincipled and unreasonable eligibility criterion for the purpose of grant of revised pension, by depriving the benefits to those retiring before a particular date.

7. The scope of the implied power of the Industrial Tribunal under S. 18(3)(b) of the Industrial Disputes Act, 1947 to implead parties to the dispute was considered by a Division Bench of the Bombay High Court, in the case between Maharashtra State Electricity Board and Industrial Tribunal Bombay, and others (1965 11 LLJ page 458). In that case the learned judges while accepting the position that S. 18(3)(b) does impliedly confer such a power held that the reasonable interpretation of the scope of the powers of the Tribunal to add parties under S. 18 would be that only necessary or proper parties can be summoned to appear before the Tribunal as parties to the dispute without enlarging the scope of the reference.

8. As observed above, the Association is vitally interested in the dispute. The dispute referred for adjudication concerns them also. Hence by impleading the Association, the scope of the reference will not be enlarged at all.

9. I therefore allow the application and direct that the Association is added as a party to the reference. The contention that even though the Association is added as a party, it should not be allowed to file a separate statement of claim is devoid of substance. As the ultimate award would be binding on the Association it must be given every opportunity to put up its claim, albeit within the ambit of the reference.

M. S. JAMDAR, Presiding Officer

(Appendix B to the Award forms part of it)

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT BOMBAY

PRESENT :

Mr. Justice M. S. Jamdar, Presiding Officer.  
Reference No. NTB-2 of 1987

## PARTIES -

Employers in relation to the management of  
M/s. Indian Explosives Ltd., (IEL).

AND

Their workmen.

## APPEARANCES :

For the Management.—Shri Khambata, Senior Counsel with Mr. R. K. Habbu, Advocate.

For the Federation of the ICI AND Associated Companies' Employees Union, Association of Pensioners of ICI Group of Companies, Bombay, ICI Friends Social Circle, Calcutta and ICI Friends Social Circle, Delhi and ICI and Associated Companies' Retired Staff Association, Madras.—Mr. C. L. Dudhia, Advocate.

For Cafi Employees Union, Bombay, National Federation of ICI and Allied Companies' Employees Union.—Mr. M. B. Anchan, Advocate.

Bombay, dated the 21st day of August, 1989

## FINDINGS ON PRELIMINARY ISSUES

The dispute in this reference relates to the modification of the pension scheme formulated by the Company for its non-management staff. The first pension scheme was formulated in April, 1962 and made effective from 1st January, 1961. It was incorporated in the consent award passed by the Industrial Tribunal, New Delhi in a reference in respect of an industrial dispute regarding raising of the retirement age of the non-management staff. The scheme was introduced in I.E.L. Ltd. (which was then named as Indian Explosives Ltd.) and in all I.C.I. Group of companies some of which viz. the Aikali and Chemical Corporation of India Limited and Chemicals and Fibres of India Limited were amalgamated with Indian Explosives Limited on 1st October, 1982.

2. (a) As per the Pension Scheme first introduced with effect from 1-1-1961, the monthly pension was calculated on the basis of the following formula :—

$$\frac{1}{12} \times \left\{ \frac{A \times B}{C} - D \right\} \text{ when}$$

"A" = number of completed continuous months of service subject to a maximum of 420 months (in the case of those employees whose age of retirement is 55 years), 450 months (in the case of those employees whose age of retirement is 58 years), or 480 months (in case of those employees whose age of retirement is 60 years) respectively.

B = Annual average of salary and dearness allowance for the last 84 months immediately preceding the date of retirement.

C = 840 where the age of retirement is 55 ;  
900 where the age of retirement is 58 ;  
960 where the age of retirement is 60 ;



D = Annuity value of the combined Provident Fund accumulations and Gratuity of the employee at such rates of annuity as may be declared from time to time by the Life Insurance Corporation of India.

Subject to the provisions of Rule 16, the minimum pension for an employee who is a member of subordinate staff at the time of his retirement shall be Rs. 20 per month, and the minimum pension for an employee who is not a member of subordinate staff at the time of his retirement shall be Rs. 45 per month."

(b) Sometime prior to 1-1-1966, the pension as stated above was increased by 50 per cent. With this increase, the minimum pension was increased from Rs. 45 to Rs. 52 p.m. in case of general staff and from Rs. 20 to Rs. 23 p.m. in case of subordinate staff.

(c) The pension was again increased by 15 per cent with effect from 1-1-1966 and the minimum pension was raised from Rs. 52 to Rs. 60 p.m. in case of general staff and from Rs. 23 to Rs. 30 p.m. in case of subordinate staff.

(d) From 1-4-1975, the pension was again increased by 15 per cent for all the pensioners and the minimum pension rose to Rs. 69 p.m. in case of general staff and Rs. 35 p.m. in case of subordinate staff. Divisor for those who retired at the age of 60 years was reduced from 960 to 840.

(e) From 1-4-1976, the minimum pension was increased to Rs. 100 p.m. in case of general staff and Rs. 60 p.m. in case of subordinate staff. This increase was however not made applicable to those who retired before 1-4-1976. The divisor was further reduced from 840 to 720.

(f) With effect from 1-10-1977, the minimum pension was fixed at Rs. 100 p.m. in case of general staff and Rs. 60 p.m. in case of subordinate staff irrespective of their dates of retirement.

(g) In about November 1982, the Company introduced two pension Schemes for pensioners retiring on or after 1-12-1979. They are as follows :—

**Scheme A :** 1.35 per cent of the pensionable salary for each year of completed service. Pensionable salary for this purpose is the last drawn basic salary received by an employee provided it does not exceed Rs. 1,000 p.m.

**Scheme B :** The existing linked formula with the deduction of annuity at the rate prevailing from time to time and the resultant amount will be increased by 40 per cent.

The Scheme 'A' or 'B' whichever was more beneficial was made applicable and the minimum pension

was also revised to Rs. 150 p.m. for general staff and Rs. 100 p.m. for labour and service staff. These revisions were however not made applicable to those pensioners who retired prior to 1-12-1979.

(h) From 1st June 1980, the pension was increased by 15 per cent for all the pensioners who retired prior to 1-12-1979 and the minimum was raised to Rs. 115 p.m. from Rs. 100 p.m. in case of general staff and to Rs. 69 p.m. from Rs. 60 in case of labour and service staff.

(i) Once again with effect from 1-7-1984, in case of those who retired prior to 1-12-79, the minimum pension was increased by Rs. 16 for labour and service staff and it was raised to Rs. 85 p.m. from Rs. 69, and in case of general staff minimum pension was raised by Rs. 20 and it was raised to Rs. 135 p.m. from Rs. 115.

(j) The Company again revised the Pension Scheme with effect from 1-4-1985 as follows :—

(a) Pension for existing pensioners who retired prior to 1-12-1979 was increased by 25 per cent of the pension that they were getting as on 31-3-1985.

(b) Pension for existing pensioners who retired between 1-12-1979 and 31-3-85 was increased by 10 per cent of the pension that they were getting as on 31-3-1985.

(c) Pension for employees retiring on or after 1-4-85 was revised as follows :—

(i) Scheme 'A' : 1.5 per cent of the pensionable salary for each year of completed service—Pensionable salary for this purpose is the last drawn basic salary received by an employee provided it does not exceed Rs. 100 p.m.

OR

(ii) Scheme 'B' : The existing linked formula with the deduction of annuity at rates prevailing from time to time and the resultant amount will be increased by 40 per cent, whichever is more beneficial.

(iii) The minimum pension was increased as follows :—

Rs. 200 for Gen. Staff.

Rs. 150 for Labour and Service Staff.

The minimum pension was applicable to all pensioners whether they retired on or after 1-4-1985 or earlier.

(k) The Company introduced a Pension Scheme for widows/widowers of Pensioners who expired on or after 1-6-1980, at the rate of 50 per cent of the pension payable to the Pensioners. This Pension Scheme was not made applicable in case of widows/widowers of pensioners who died before 1-6-80.

3. As can be seen from the correspondence produced alongwith the statement of claim, filed by the Federation of I.C.I. and Associated Companies' Employees Union (herein referred to as the Federation) and collectively marked as annexure No. 2, the Federation as well as the I.C.I. and Associated Companies Retired Staff Association, Madras were demanding since as far back as 1973, revision of the pension scheme. It appears that the Federation took up the matter with the I.C.I. Group of companies by their letter dated 19th March, 1982 but the companies refused to participate in the joint conference called by the Dy. Labour-Commissioner, Government of West Bengal and the conciliation proceedings held by the Dy. Labour Commissioner resulted in failure. Hence on the basis of the failure report dated 2nd September, 1985, submitted by the said authority, the Government of West Bengal moved the Government of India for considering the question if the dispute can be referred to this Tribunal. Accordingly the Central Government by the order dated 13-8-1987, passed in exercise of the powers conferred by sub-section (1-A) of section 10 of the Industrial Disputes Act has referred the following dispute to this Tribunal for adjudication:

"Whether the pension formula governing the present pension scheme introduced by the Management of the Indian Explosives Limited for its employees in all its establishments in the country needs revision in so far as it does not take into account the cost of living as a factor in its determination and whether the scheme in the way it is being implemented is discriminatory in its application to different categories of pensioners. If so, what is the relief to which the workers are entitled".

4. By its statement of claim the Federation has made the following demands:—

- (i) The Federation, therefore, demands that the existing pension scheme should be substantially revised and the pension should be paid at the rate of 50 per cent of the last drawn basic salary and dearness allowance thereon, of the employee at the time of retirement and the dearness allowance should be linked with the dearness allowance scheme prevailing in the Company from time to time, so as to compensate the pensioners adequately for the rise in the cost of living and rise in prices after they retire.
- (ii) The Federation further demands that there should be no discrimination in the payment of pension on the basis of the date of retirement and all revisions made in pension from time to time should be made applicable to all the pensioners.
- (iii) All employees who have retired prior to 1-1-1961 from the Company should be eligible for pension on the same lines as those who retired on or after 1-1-1961.
- (iv) All widows/widowers of employees or of pensioners who have retired prior to 1-1-1961 and all widows/widowers of the pensioners

who have died prior to 1-6-1980 should be eligible for pension on the same lines as those widows/widowers of the pensioners who have died on or after 1-6-1980.

- (v) Widows/Widowers of employees or pensioners should be paid pension at the rate of 50 per cent of the pension payable to the deceased employees or pensioners concerned as demanded in sub-para (i) above and revisions made in pension from time to time should be made applicable to all the widows/widowers.
- (vi) The period of 20 years' service for the purpose of eligibility of pension should be reduced to 15 years' service and all employees including ex-employees who have completed service of 15 years' and more and who were or are not able to complete 20 years of service on account of reaching the age of retirement or expiring while in service or being mentally or physically disabled to continue further in service, and the widows/widowers of such employees, should be eligible for pension on the same lines as the other employees or the widows/widowers of such employees.
- (vii) The pension should be rationalised and the discrimination should be removed.
- (viii) The revised pension scheme should be effective from 1-1-1982.

5. Originally the Association of Pensioners of ICI Group of companies (hereinafter referred to as the Association) was not a party to the reference. The association filed an application dated 11-1-1988 for impleading it as a party to this reference. The company, opposed the application on the ground that the Association has no locus standi in the present dispute because the pensioners, having retired from service cannot be workmen within the meaning of S. 2(s) of the Industrial Disputes Act (hereinafter referred to as the Act) and hence cannot be made parties to an industrial dispute under the Act; that as the dispute does not relate to the employment or non-employment or the terms of employment of the applicant pensioners, they cannot be covered by the reference and that the membership of the Association is open also to ex-officers to whom the existing pension scheme does not apply. All the objections were, however rejected by a speaking order and the writ petition filed by the company against the said order was rejected in limine by the Bombay High Court. The Association who was made party to the reference, also made similar demands in its statement of claim.

6. The company has raised preliminary objections regarding competency of the reference and jurisdiction of this tribunal to adjudicate upon the dispute referred. It was contended that pensioners having retired from service cannot be 'workmen' within the meaning of S.2(s) of the Act and hence no reference under section 10(1-A) of the said enactment can be validly made in respect of the employment or non-employment or terms of employment of the erstwhile pensioners. It was also contended that the reference is not maintainable in view



of the fact that pension is not a matter specified or prescribed under the Third Schedule of the Act nor it is a matter which reasonably legitimately falls within the scope of the second schedule to the Act and that the subject matter of the reference viz. 'pension scheme', is beyond the jurisdiction of this tribunal. Both these objections deserve to be rejected.

7. The first objection was incidently considered by this tribunal while dealing with the application filed by the Association for impleading it as a party to this reference. The objection raised by the company to the prayer was rejected mainly on the grounds that the erstwhile pensioners are interested in the dispute, the representative of the present workmen can validly raise an industrial dispute on behalf of past workmen and the scope of the reference would not be enlarged by impleading the Association as a party to this reference. It is worthwhile in this behalf to quote the observations made by this Tribunal in paragraphs 4 and 6 of the said order, as they are relevant to the issues raised by the company.

"4. No doubt the Association itself could not have raised the dispute under the I.D. Act but the Federation could have, and has, raised an industrial dispute on behalf of the pensioners. Section 2(k) of the I.D. Act, defines 'industrial dispute' to mean any dispute or difference between employers and employers or between employers and workmen or between workmen and workmen, which is connected with the employment or non employment or the terms of employment or with the conditions of labour of any person. The term 'any person' is wide enough to include past, present and future workmen. It is significant to note in this context that pension scheme referred to above was incorporated in the award given in terms of the settlement, as a condition of service of the workmen. Retrospective revision of the pension scheme would thus modify the service conditions of the retired workmen. An industrial dispute therefore can be validly raised by the representative of present workmen in respect of applicability of revision of the pension scheme to the pensioners who have already retired from service.

6. Moreover principles of natural justice which are not inapplicable to an industrial adjudication require that a party whose interests are likely to be affected by the adjudication must be given an opportunity of being heard on the dispute involved. As the erstwhile pensioners are interested in the removal of discrimination in the pension scheme and also in uniform revision of the scheme on the basis of cost of living they must be given an opportunity to plead and to make out a case in support of the demand which is referred for adjudication as held by the Supreme Court in *D. S. Nakara and others Vs. Union of India* (1983 1 Supreme

Court Cases 305) all pensioners form a class as a whole, and as such have equal right to receive the benefits of liberalised pension scheme and cannot be micro-classified by an arbitrary, unprincipled and unreasonable eligibility criterion for the purpose of grant of revised pension, by depriving the benefits to those retiring before a particular date."

8. As held by the Supreme Court in the case between workmen of Dimakuchi Tea Estate and Dimakuchi Tea Estate (1958 1 LLJ 500) where the workmen raise a dispute as against their employer, the person regarding whose employment, non-employment, terms of employment or conditions of labour the dispute is raised, need not be strictly speaking a workman within the meaning of the I.D. Act but must be one in whose employment, non-employment, terms of employment or conditions of labour workmen as a class have a direct or substantial interest. It cannot be disputed that the workmen represented by the Federation has direct and substantial interest in the revision of the pension scheme.

9. It is also not correct to say that the dispute relates to the terms of employment of pensioners who have ceased to be workmen. The pension scheme which is sought to be modified governs the workman who are presently in the employment of the company in the sense that on their retirement they would be paid pension according to the formula contained in the pension scheme in operation. It is also pertinent to note that the company has accepted the position that the pension scheme is a condition of service of its workmen. Not only the company made such a declaration while implementing the scheme but also the position was specifically mentioned in some of the previous settlement between the management and its workmen. The company has also specifically stated so in para 3 of its written statement in this reference. The dispute in respect of modification of the existing pension scheme therefore mainly relates to the terms of employment of the present workmen of the company.

10. Even the demand that any revision of the pension scheme be retrospective in the sense that it should be applicable to all pensioners irrespective of their dates of retirement, is also a demand, which the present workmen can validly make. No doubt the present pensioners would be benefited by such retrospective revision of the pension scheme. But that does not mean that such demand can be made by present pensioners alone. The present workmen can also seek to ensure that any revision made after their retirement should be applicable to them also.

11. It may be that some of the demands made by the Federation and the Association in their respective statement of claim may benefit only the erstwhile pensioners. But such alleged attempt to expand the scope of the reference would not render the reference itself bad in law. The question that can be legitimately raised would be about justification of

the demands and not about validity of the reference which cannot be affected by any attempt by the parties to enlarge its scope.

12. Equally unsustainable is the contention that the reference is not maintainable in view of the fact that pension is not a matter specified in or prescribed under the Third Schedule to the Act nor it is a matter which reasonably/legitimately falls within the scope of the Second Schedule and hence the subject matter of the dispute is beyond the competence of this Tribunal. Pension is no longer a matter of bounty. It is a condition of service. The company has accepted this position and has formulated the pension scheme as one of the conditions of service of its workmen. It is pertinent to note in this context that the scheme was formulated to meet the demand of the workmen to raise the retirement age. Formulation or modification of pension scheme is an industrial matter and any dispute between the employer and the workmen in respect of the demand for formulation of a pension scheme or modification of an existing scheme is an industrial dispute within the meaning of S. 2(k) of the Act.

13. 'Pension' is not specifically mentioned in the Third Schedule nor in item nos. 1 to 5 of the Second Schedule. It is also not specifically mentioned in item 5 of the Third Schedule, which specifically mentions some other benefits. Shri Khambata the learned counsel therefore urged that the omission of pension from the items enumerated in the Third Schedule and which fall within the jurisdiction of the Industrial Tribunal, is deliberate and clearly shows the intention of the legislature to exclude industrial dispute relating to pension from the jurisdiction of the Industrial Tribunal and therefore of the National Tribunal and therefore of the National Tribunal. It is however pertinent to note that matters enumerated in the second schedule, which fall within the jurisdiction of the Labour Court can also be referred for adjudication to the Industrial Tribunal. And even though pension is not mentioned in item nos. 1 to 5 of the Second Schedule item no. 6 of the said schedule is wide enough to cover an industrial dispute relating to pension.

14. Item no. 6 of the Second Schedule of the Act reads as follows :—

“All matters not covered by the Third Schedule”.

It was contended on behalf of the company that item no. 6 is limited to matters peripheral to the matters enumerated in item nos. 1 to 5 and will have to be interpreted by applying the principle of 'ejusdem generis'. In view of the general wording of item no. 6, the contention cannot be accepted. It is clear that item no. 6 is a residuary clause, which covers all industrial dispute which are not covered by item

nos. 1 to 5 of the second schedule and by the Third Schedule. Any other interpretation will lead to the anomalous position that there would not be any forum for adjudicating industrial disputes which do not fall within the scope of the Third Schedule or are not peripheral to item nos. 1 to 5 of the Second Schedule. Shri Khambata in fact, advanced such an argument. But in view of the object of the Industrial Disputes Act it is not possible to accept such an extreme submission. One of the objects of the Industrial Disputes Act is settlement of industrial disputes and hence it is reasonable to hold that adequate machinery for that purpose is provided for by the Act. It cannot therefore be conceived that no forum is provided to adjudicate upon disputes which are not specifically enumerated in item nos. 1 to 5 of the Second Schedule and in the Third Schedule.

15. Moreover the National Tribunal has jurisdiction to adjudicate upon any industrial dispute whether covered by the Second Schedule and the Third Schedule or not. As contemplated by S. 7 of the Act, Labour Courts can be constituted for adjudication of industrial disputes relating to any matter specified in the Second Schedule, and in view of S. 10(1)(c) of the Act only matters specified in the Second Schedule can be referred to the Labour Courts. S. 7-A contemplates constitution of Industrial Tribunals for adjudication of industrial disputes relating to any matter whether specified in the second schedule or third schedule and only these industrial disputes can be referred to the industrial tribunal by virtue of S. 10(1)(c) of the Act. There are no such limitations either on the constitution of jurisdiction of the National Tribunal. By virtue of S. 7-B National Tribunal can be constituted for adjudication of industrial disputes generally, and under section 10(1-A) of the Act any industrial dispute, which in the opinion of the Central Government involves 'any question' of national importance or is of such a nature that industrial establishments situated in more than one state are likely to be interested in, or affected by it, can be referred to the National Tribunal. The clause "whether it relates to any matter specified in the Second schedule or the Third Schedule" in Section 10(1-A) governs "any matter appearing to be connected with or relevant to the dispute, and not the word 'dispute' which can be referred to the National Tribunal". Hence even a dispute which is not covered by the Second or the Third Schedule can be referred to the National Tribunal. But such a contingency is not likely to arise, if item no. 6 of the second schedule is correctly interpreted and given appropriately wide meaning so as to include all matters not covered by other items of the Second Schedule and the Third Schedule.

16. The reference, therefore, is valid, is maintainable and this Tribunal is competent to adjudicate it.

M. S. JAMDAR, Presiding Officer